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ABSTRACT

This hearing's transcripts compile testimony given before the Subcommittee on Telecommunications and the Internet of the Committee on Energy and Commerce on the entertainment industry's efforts to curb children's exposure to violent content, especially those of the music industry. The hearing began with statements from the chairman of the subcommittee and other legislators regarding the findings of the Federal Trade Commission's (FTC) April, 2001 report to Congress. Statements or testimony were then presented by: (1) the associate director of advertising practices for the Federal Trade Commission, who described the findings of 2 studies regarding the marketing of violent entertainment products to children and the status of the current review of advertising placements and disclosure of ratings information in advertising; (2) the president of Interactive Digital Software Association, who emphasized that most videogame players are over age 18 and that most games do not contain violent content, and also described the efforts of the videogame industry to regulate its marketing plans; (3) the president of the Motion Picture Association of America, who highlighted parental responsibility for guiding their children's entertainment selections, current satisfaction with the rating system developed over 30 years ago, and the industry's current marketing initiatives; (4) the president of the Recording Industry Association of America, who focused on efforts of the music industry to label music releases containing explicit lyrics with a parental advisory logo and responded to criticisms presented in the FTC reports; (5) a senior vice-president for Wal-Mart Stores, who presented information on Wal-Mart's policies regarding the types of products they carry and its age verification policy; and (6) the executive director of a national grass roots organization to inform the entertainment industry of unacceptable levels of violence in entertainment, who urged the subcommittee to do its part in stopping the marketing of

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violent entertainment to children. Following testimony and prepared statements, witnesses answered questions from the subcommittee members related to the lack of a consistent rating across entertainment media and the music industry's marketing of edited versus unedited products. Additional materials were submitted by the Video Software Dealers Association. (KB)

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AN EXAMINATION OF THE ENTERTAINMENT INDUSTRY'S EFFORTS TO CURB CHILDREN'S EXPOSURE TO VIOLENT CONTENT

HEARING

BEFORE THE

SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET

OF THE

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

JULY 20, 2001

Serial No. 107–60

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AN EXAMINATION OF THE ENTERTAINMENT INDUSTRY'S EFFORTS TO CURB CHILDREN'S EXPOSURE TO VIOLENT CONTENT

FRIDAY, JULY 20, 2001

House of Representatives,
Committee on Energy and Commerce,
Subcommittee on Telecommunications
and the Internet,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2123, Rayburn House Office Building, Hon. Fred Upton (chairman) presiding.

Members present: Representatives Upton, Stearns, Largent, Cubin, Shimkus, Pickering, Terry, Tauzin (ex officio), Markey, McCarthy, Luther, Stupak, Harman, and Sawyer.

Staff present: Linda Bloss-Baum, majority counsel; Yong Choe, legislative clerk; Andrew W. Levin, minority counsel; and Brendan Kelsay, minority professional staff member.

Mr. Upton. Good morning, everyone. We are expecting one vote on the floor within the hour, and then the House will be adjourned for the week, so we are going to try to move as quickly as we can.

I had a discussion last night with Ranking Member Markey and Vice Chairman Stearns with regard to interest by the members of the Commerce, Trade and Consumer Protection Subcommittee, and agreed to ask for a unanimous request that the members of that subcommittee wishing to participate in our hearing today, in fact, can, and we will be recognizing members based on when the gavel fell. So, you will take note of the members that are here. And so I will make that request without objection and so rule.

Good morning. In preparation for today's hearing, I listened to a few songs and a recording that was labeled as having explicit content, and I have to say it was very explicit, especially the sounds of a woman's throat being slit. This music is not by some fly by-night artist, it is by a recent Grammy award winner. And if you think that this type of graphic violence has no effect on our kids, well, think again. And if you don't believe me, ask the parents at Columbine or ask the parents at Paducah. These are graphic images, and, for the parents in this room, they are particularly unpleasant ones.

For every Columbine there are hundreds of acts of school violence that go unnoticed and unreported every day. And for every kid like Eric Harris and Dylan Klebold, there are hundreds of kids that aren't shooting, but that are pushing, shoving and insulting each other with greater frequency and anger than ever before. So after each incident like Columbine or Paducah, we ask ourselves, how did it happen? We go on TV. We hold town meetings, we pass laws, and we ask ourselves how can we stop this from happening again, while at the same time we hope and pray that next time it is not our kid's school, daycare center or school bus.

We have learned from history, whoever tells the story defines the culture. Today the average child in America witnesses over 200,000 acts of violence by the time that they graduate from high school. This breaks down to over 30 acts of violence every day. This figure does not even take into consideration some of the explicit lyrics from artists that they hear repeated over and over again.

If you think I am being overly dramatic, consider this: There are plenty of reports dating back to 1955 that have demonstrated a direct correlation between violent media and aggressive behavior in children. One key study, in fact, demonstrates that a group of 22 young folks, those who watched more TV by age 8 were more likely by age 30 to have committed more serious crimes, be aggressive drinkers and punish children more harshly than others. Further, a study released this past April noted that violent video game players are more likely to argue with teachers and get into physical fights than their peers.

So if indeed these figures are true, and mass media is telling the stories, what kind of culture have they defined? Today's hearing is not about the First Amendment, pointing fingers, assessing blame or condemning the entertainment industry. It is instead about corporate responsibility and the stewardship of public trust. As a parent of two small kids, I know that child-rearing starts in the home and believe that parents cannot shirk their responsibility to police their kids' activities to limit their exposure to violence.

But I say to our panel today that we cannot do it alone. Yes, the First Amendment is a right, but with it comes a weighty responsibility, so to a large degree we must rely on you, the leaders of the entertainment industry, to do the right thing by not marketing violent material to our kids.

So today we are here to do what parents on their own do not have the collective power to do: demand that the entertainment industry tell us what they have done, what they are going to continue to do to prevent the marketing of violent material to kids.

Let me say first and foremost that I am deeply troubled by the FTC's conclusion in its April 2001 follow-up report to Congress that states the music recording industry has not taken any visible steps with respect to explicit-content-labeled music. Ms. Rosen, several months have gone by, and I am hopeful that you will have some good news to report today on its effect in that regard. I would hate to think that the music recording industry is out of tune with the rest of the entertainment industry. We don't need lip-syncing or lip service. We really do want bold, real and concrete steps.

Also I want to commend Wal-Mart for its good corporate citizenship. As the second largest retailer of music in the Nation, Wal-Mart has chosen to sell only that music whose explicit lyrics have been edited out. Wal-Mart is using its market power to make a difference and should be applauded for its voluntary efforts.

The bottom line is this: We all need to work together for parents and children of our country. I assure you that until we successfully snuff the marketing of violent material to kids, this Congress and our constituents will not rest.

[The prepared statement of Hon. Fred Upton follows:]

Prepared Statement of Hon. Fred Upton, Chairman, Subcommittee on Telecommunications and the Internet

Good morning.

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So, after each incident like Columbine, or Peducah, we ask ourselves how it happened. We go on television. We hold town hall meetings. We pass laws. And we ask ourselves "how can we stop this from happening again," while at the same time we hope and pray that, next time, it's not our child's school, daycare center, or school bus.

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So, if indeed these figures are true, and mass media is telling the stories, what kind of culture have they defined?

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Yes, the First Amendment is a right—but with it comes a weighty responsibility. So, to a large degree, we must rely on you, the leaders of the entertainment industry, to do the right thing by not marketing violent material to children.

So, today, we are here to do what parents, on their own, do not have the collective power to do,—demand that the entertainment industry tell us what they have done, and what they are going to continue to do, to prevent the marketing of violent material to children.

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Ms. Rosen, several months have gone by and am hopeful that you will have some good news to report today on its efforts in this regard. I would hate to think that the music recording industry is out of tune with the rest of the entertainment industry.

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The bottom line is this: We all need to work together for parents and children of this nation.

I assure you, until we successfully snuff out the marketing of violent material to children, the Congress, and our constituents will not rest.

Mr. UPTON. I yield to my friend and colleague, ranking member of the subcommittee, Mr. Markey.

Mr. MARKEY. Thank you, Mr. Chairman, very much, and I want to commend you for holding this hearing today. It is an important subject that millions of American families really care a lot about, and I believe that it is quite timely for us to check with the industry, with the Federal Trade Commission to ascertain the amount of progress that has been made in the wake of the Federal Trade Commission reports on this issue.

Parents have a right to know whether certain media products out on the market today contain material that is inappropriate for viewing by their children. This is true whether the item is a video game, a CD or a movie. Parents have rights. There is ample evidence in numerous studies of the exposure to media violence on children and a resulting desensitization to violence and acceptance of violent behavior. Both for this reason and to respond to parents' concerns, the video game reporting and movie industries have put in place voluntary ratings and parental advisories on their entertainment products. These warnings advise parents of content that may contain explicit violence, language, drug use or sex.

Now, last September the Federal Trade Commission issued a report that found that many companies in the entertainment industry were marketing products to minors that were otherwise rated inappropriate for minors, or which recommended parental permission for use or purchase by minors. At the time the Federal Trade Commission called upon the three entertainment industries studied to adopt voluntary policies prohibiting these marketing practices and to vigorously enforce their own self-regulatory policies.

After the Federal Trade Commission report, I wrote to then FTC Chairman Pitofsky to ascertain the current authority of the Federal Trade Commission to take action with respect to marketing violent products to kids under its power to police unfair and deceptive business practices. Chairman Pitofsky responded that, in his opinion, the Federal Trade Commission may have limited ability to take legal action in tough borderline cases.

I am eager to hear what new FTC Chairman Muris' view is on this legal interpretation. In addition, I am also eager to ascertain what the Federal Trade Commission intends to do when the matter is not a borderline tough call, but a flagrant marketing of violence to children. What are we going to do in the obvious cases? Some in the industry were going so far as to round up 11-year-old kids for focus groups in the mall to figure out how to better market R-rated products to the child audience. So is that really a difficult case?

In April of this year, the Federal Trade Commission followed up on their previous report, and this hearing provides the subcommittee the opportunity to better understand the Federal Trade

Commission's more recent finding, as well as review progress across various industries. Again, I want to commend Chairman Upton for calling this hearing, and I look forward to hearing from our witnesses.

Mr. STEARNS [presiding]. I thank the gentleman.

The distinguished chairman of the full committee, the gentleman from Louisiana, Mr. Tauzin.

Chairman TAUZIN. I thank the chairman.

First of all, let me make a statement that should precede any one of these hearings, and that is that this committee in particular, of all the committees in Congress, is charged with an obligation under the Constitution to protect First Amendment free speech of our citizens. We start from that proposition. That is why this committee, when it looked at the question of ratings on movies, instead of sponsoring and pushing legislation from Congress to regulate the material that motion pictures present to us on the screens of cable and television, instead took the hearing to Peoria, invited the industry to come and meet with citizens and to discuss with them a voluntary system. Out of it was born the new rating system for motion pictures.

And I want to commend the industry for not only adopting that rating system, following those citizen meetings with this committee, but, more importantly, for following up with even more information than the rating systems provided, and not just saying why a motion picture is rated R—that it is rated R, but why it is rated R, giving consumers more information about why the motion picture industry rated a particular movie a certain way, why it said that children under 17, for example, should have a parent available with them when they watch a certain movie.

Second, I want to commend the video game industry. I particularly appreciate the efforts of the industry 6 years ago to institute the Entertainment Software Rating Board for a relatively new industry, recognizing that there were great consumer concerns about the violent content of many video games. The industry not only went into the business of advising parents about the character of some of these games, but also instituted a system helping Americans understand why a particular game was rated the way it was. I think those have been very important and significant advances that have helped parents make decisions about the entertainment choices of their children, and I thank you for that.

And the recording industry has likewise instituted a program to at least advise parents that recording products may contain explicit material, but the question today, of course, following the report of the FTC is is that enough when it comes to recordings? And we ought to think about that today. And the question is, should the recording industry, excuse the pun, get in sync with your industry counterparts when it comes to giving parents a little more information about why a particular recording has been rated explicit material.

We know that 15 of Billboard's current top 50 albums, that is 30 percent of the most popular albums, now contain that parental warning. That is an awful high percentage. Maybe parents ought to know a little more about why a particular recording received that label.

First of all, let me concede that an explicit video scene in a movie or a video game is different than a song and the words which can be interpreted many different ways. But as the chairman of the committee pointed out in his statement, when technological improvements allow a song to include simulated real-life sounds like the slitting of a human throat while the voiceover sings out, bleed, bleed, bleed, there is no more room for interpretation. That is pretty violent stuff.

I want to tell you a quick story to give you the edges of this debate. I am watching the animated movie Popeye with my young son, who is now a young man, but he was then a very young child. In the animated movie Bluto punches out all the windows in a rage, and then goes on his way, and my young son jumped off my lap without my being able to catch him, and he ran out to the glass storm window and the door in the front of the house and punched his way through it. The scene obviously translated into something in his mind that made him think he could do just like Bluto and punch the glass door. And the glass obviously didn't react like video glass, cartoon glass. It came down and cut his arm and cut an artery, and he was bleeding profusely. I remember taking him to the hospital and the doctor said, the boy will do fine; I think we have to hospitalize the dad. He looks in terrible shape. It was a horrible experience for me, and not just for my son.

Obviously, we can't censor cartoons, and we certainly don't want to be in the business of government supervision of whether or not Bluto is violent or not violent in a Popeye cartoon. That is the far edges of that stuff. But on the other hand, we need to recognize that children respond, they react, as the chairman said, to what they see and hear and what they feel, and when we give them an overabundance of this stuff, without helping parents who want to make sure their kids are not exposed to too much of it, too violent a performance, or too violent a scene, or too violent a video, you know, we are maybe not doing our job properly.

And to all of you who are working with us, let me thank you, and I think you all are. And this meeting is obviously a chance for us literally to publicly measure the progress you are making in the private sector to help parents with this thorny kind of issue. How do we help our parents of America know what it is their children are watching and seeing and playing with as they entertain themselves growing up? And so I want to thank you for the progress you are making. I want to encourage you to continue that progress. I particularly want to encourage the recording industry to think seriously about maybe if we could improve on the explicit warning ratings and, as the FTC has pointed out, continue in the private sector doing what we in government are very loathe to do, and that is to get into the business of regulating the content of material in a free speech society.

I thank you very much, Mr. Chairman.

[The prepared statement of Hon. W.J. "Billy" Tauzin follows:]

PREPARED STATEMENT OF HON. W.J. "BILLY" TAUZIN, CHAIRMAN, COMMITTEE ON ENERGY AND COMMERCE

Mr. Chairman, thank you for holding this important hearing today. The subject of violence in the media is one that many parents often raise with members when we are home in our districts. They are rightly concerned about the effects that prolific violence in the media may have on their children, and generally are eager to limit their kids' exposure to it as much as possible.

But parents need help in the 21st century to understand what exactly is contained in the movies their kids watch, the music they listen to, and the video games they play. Gone are the days when there was one family phonograph player in the living room. Today kids listen to music over personal headsets that do not allow parents to monitor what is going directly into their children's ears and heads.

I commend the efforts taken by the motion picture industry and the video games industry to give parents additional information and guidelines to better understand what is contained within a particular video game or movie. I particularly appreciate the efforts of the video game industry that six years ago took the initiative to institute an Entertainment Software Rating Board for its relatively new industry that many parents knew little about. This board provides a rating to each video game based on age appropriateness as well clear information about the content that influenced that rating, such as violence, strong language or suggestive themes. I encourage the video game industry to continue to educate consumers about these ratings to retailers and consumers who may not yet be familiar with the relatively new system.

The motion picture industry has made great efforts to supplement their traditional system... the one most folks have relied upon for decades... with descriptions about why R rated movies may be inappropriate for children under 17 not accompanied by a parent. Similarly, the video game industry has developed its own new age based system that also describes why a particular game may earn a M: for mature rating.

As for the recording industry—I call upon you to get "in sync" with your industry counterparts to help educate consumers about the material that your members themselves deem to be "explicit." I hope that you will recognize opportunities to improve your industry efforts to help parents better understand your products. I would like you to seriously readdress whether or not the current one size fits all labeling system for music could be expanded to provide additional information about the content consumers can expect to hear. When 15 of Billboard's current top 50 albums—that's 30 percent of the most popular albums today—receive parental advisory warnings, I believe the industry has a responsibility to let consumers know why.

I do agree with the RIAA that the informational systems regarding content should be tailored to the specific medium that they rate. Unlike an explicit video scene in a movie or video game, a single song can mean many different things to many different people. However, as technological advances allow artists to include simulated real life sounds, such as mutilating another human being, into their work, there is less room for individual interpretation of a musical piece. Yes—Lyrics alone are indeed susceptible to varying interpretations, however, the sound of slicing a human being's throat while shouting the word "bleed," arguably leaves less to the imagination.

This Committee is well aware of the First Amendment implications of government regulation of artistic material. But there is legislation currently before the Energy and Commerce Committee that would enable the government to enforce policies against marketing and selling this material to minors, and we need to think about it very carefully. I hope that we can use this opportunity today to learn more about what industry is doing on their own to address this problem to avoid the need for Congress to step in and take action.

Finally, I want to apologize to all the Members of the Committee for the inconvenience regarding late testimony. The last time I reviewed the Committee instructions that are sent out to witnesses, they seemed to clearly lay out the directions for when and how to submit testimony. These rules exist in order to allow staff and Members time to review testimony in advance and have the most productive hearing possible. I hope that in the future all witnesses will respect this Committee process.

Once again, thank you, Mr. Chairman, for holding this important hearing, and I look forward to asking our witnesses some questions.

Mr. UPTON. Thank you, Mr. Chairman.

I recognize my good friend and colleague from the great State of Michigan Mr. Stupak.

Mr. STUPAK. Thank you, Mr. Chairman, for holding this hearing on a subject that greatly concerns me. As a father, a legislator and as a member of this subcommittee, I take seriously my and our responsibility to ensure that the entertainment industry acts to protect children from violent and inappropriate content. Unfortunately, we are here today because the entertainment industry needs to do more.

As the witnesses will testify today, these industries are not subject to any regulations currently on how they advertise or rate their video or audio content. We ask them to regulate themselves in part out of our First Amendment considerations. But the First Amendment does not offer carte blanche to businesses to ignore their responsibilities to consumers, parents and to children, and the government has somewhat greater latitude in regulating in the area of commercial speech.

My colleague Zach Wamp and I have introduced the 21st Century Media Responsibility Act of 2001 to require a standardized identical product labeling system for interactive video games, video programs, motion pictures and music. This uniform and consistent labeling system will be a valuable tool to parents and consumers who want more information about the games their children play, the music they listen to and the movies and television shows they watch. I think we need to shift the burden of proof. Why should parents have to muddle through an assortment of different ratings systems for each entertainment medium? Violence is violence. It is no different to see a violent image in a video game than on a movie screen. There is no reason why the same identical label cannot apply to each.

Our legislation asks the industries to work together to develop a standardized product labeling and advertising system to inform consumers of the nature, context and intensity of violent content, and the age appropriateness of their products. Subsequently, the bill requires this system to be examined and approved by the FTC. Our bill bans the domestic sale or the commercial distribution of unlabeled products after 1 year. Further, retailers are required to enforce the age restrictions on the products.

I commend those in the entertainment industry that have taken steps to modify their advertising and labeling. While the FTC has noted definite progress, I believe we need to do more. While we wait for the industry to act, another child is exposed to explicitly violent lyrics or images, and another and another. I agree with the industry that we cannot prevent every such exposure, but the time has come to take some serious action. I believe that our legislation is necessary in order to hasten the process and to create a uniform, identical, consistent labeling system so every parent and every consumer can easily identify the product's content.

Thank you, Mr. Chairman, for holding this hearing, and I look forward to hearing from our witnesses today.

Mr. UPTON. Thank you.

Mr. Terry.

Mr. TERRY. Thank you, Mr. Chairman. I appreciate you holding this hearing today and allowing me to go out of order since I am addressing 120 Boy Scouts who are in town at the Jamboree in the next 10 minutes.

This is an important issue. Several of us have already stated our roles as fathers. I have three small children, and we, of course, keep a close eye and watch when we buy a Play Station game or a video for the warning labels on there, and we pay close attention to those. But we are here today to specifically look at the music industry and the evolution of the "explicicity" of the lyrics, both sexually, the language, violence.

That is a small part of what I think is really in the big picture of, you know, the changes in our society and our culture today that seem to be either ambivalent or accepting of those. I mean, here we are—it is interesting when you think back when I was a child and people were upset with the Rolling Stones song talking about Let's Spend the Night Together, or counterculture was measured by parting your hair on the right or the left if you reference The Who song there. And today it just seems like counterculture builds up on the previous generation. Madonna seems tame and lame in today's world of Eminem.

So we have gone from criticizing in a society that is concerned about a Stones song saying Let's Spend the Night Together to the Grammys awarding perhaps an artist with the most explicit violent lyrics in today's market. And what is concerning to me as a parent is you listen to some of these songs on the radio, and you think, God, these are terrible, but they are not bad. You know, okay, I can at least understand why it is allowed. And then you listen to the CD version, and it is a lot different and a lot more graphic. So as a parent, you sit here and think—you listen to a song on the radio and think it is close. I am not real comfortable with it from what I heard on the radio, but I—you know, I will let this one pass.

It is just unfortunate now that we have a society or a music industry that allows—lulls parents into sleep, giving one version for radio play and an entirely different version for a CD version, the record version. And then you—as a parent, as I stated, we look for the warning labels on the games that we buy, the videos, computer games, and I appreciate the level of the ratings, so I understand they are age-appropriate. I understand that if there is a language issue or a violence issue, we particularly want to steer our children away from violence in video games and the type of things we do. I don't have that option as a parent.

Now, fortunately my children are pretty young. We are still into some pretty early type of music. We are still with Vegetales and things like that. We are just getting into All Star, those type of songs, with my oldest who is seven. But I really want, as a parent, the ability, since society has changed and we are no longer outraged as a society with songs that—with explicit lyrics, me as an individual parent, I am, and I want the power to decide and be involved in what products my children are listening to and what products they are purchasing. So we are here today to have a great discussion on this important issue.

I yield back my time.

Mr. UPTON. The gentleman's time has expired.

The gentlelady Ms. McCarthy.

Ms. MCCARTHY. Thank you, Mr. Chairman, and I commend you for holding this hearing, and I thank the witnesses who have taken time to come and share their thoughts with us today.

Mr. Chairman, I very much appreciate the pocket guide entertainment ratings that were provided to us, and I am glad we have them as we have this discussion today.

And I need to fully disclose that I am a recipient of the highest honors that the American Civil Liberties Union can bestow on anyone, because, Mr. Chairman, I stood up for the rights of you to express yourself in the manner that you so chose to say the things you want to say, to pray the prayers you want to pray, to really truly have the freedoms that this Bill of Rights and great country affords us. And so I guess, though, I can't let you yell "Fire" in one of Jack Valenti's theaters.

But other than that I think that this great country really has so much to offer, and while you were listening to Eminem, and perhaps you were upset by some of the lyrics, the messages in his songs about being angry when your wife cheats on you and, you know, betrayed by someone you trust, and being upset with authority figures who keep you from doing the things you want to do, I think those are kind of classic themes in other literary forms and over the years have been expressed by other controversial people, whether it was Shakespeare or the Beatles, as has been referenced or other artists.

But I really do think that the industry has gone a long way toward addressing the concerns we have raised in the past. This is one way, and labeling their product for parents is certainly another. So I would hope that this hearing is all about whether or not there is anything we can do collaboratively to continue to improve the process of sharing information, but I certainly hope it won't go in the direction of trying to abrogate those rights provided by our Bill of Rights and our Constitution and doing anything to minimize the beauty of the freedom of expression that we have in this country that others all over the world admire.

So I look forward to the testimony, and I will put my formal remarks in the record, and I thank you for this hearing.

[The prepared statement of Hon. Karen McCarthy follows:]

PREPARED STATEMENT OF HON. KAREN MCCARTHY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Thank you Mr. Chairman for holding this important hearing on the entertainment industry's efforts to curb children's exposure to violent content. I look forward to the testimony of the witnesses on this issue, and the dialogue that will follow.

In September 2000, the Federal Trade Commission (FTC) issued a report that found that entertainment companies were intentionally marketing violent, adult-oriented products to children. In response to the report and public pressure, the motion picture and video game industries have made a good-faith effort to improve their marketing practices. The FTC cited this improvement in its April 2001 follow-up report.

I have a long-standing interest in the music industry, particularly with respect to recording artists. My district in Kansas City is the one of the major jazz and blues hubs and home to legendary recording artists. Throughout my career I have worked to strengthen their rights and preserve their creative freedom. I am concerned about the First Amendment implications of labeling content that may be offensive to some, but is not considered obscene under legal doctrine. The industry's explicit lyric warning system is a voluntary one. Artists and record companies are not legally obligated to label their content.

I am interested in hearing the witnesses' opinions on how to strike a reasonable balance between the freedom of artistic expression and providing parents with the tools they need to determine if movies, video games, and music contain explicit images or lyrics they do not want their children exposed to.

I am pleased that the entertainment industry has taken steps to improve its marketing practices, and I encourage them to continue to do so.

It would be unreasonable for us to be the content police for all entertainment products on the market, but it is fully reasonable to establish some boundaries where both free expression and children's best interests coexist. Through collaborative efforts, a consensus can be developed which makes progress on this issue. In the end, however, it is the responsibility of parents, not the government, to determine what entertainment is appropriate for their kids.

Thank you Mr. Chairman. I yield back the balance of my time.

Mr. UPTON. Thank you.

Mr. Stearns.

Mr. STEARNS. Thank you, Mr. Chairman. I know that both you and I have a personal interest, and I look forward to working with you on this so parents are given the necessary tools to ensure their children are protected from harmful and violent entertainment.

While the primary responsibility of policing what children are exposed to ultimately rests with parents, industry to a certain extent shares responsibility for making parents' already difficult job even more difficult. My colleagues—the Federal Trade Commission September 2000 Report on Marketing Violent Entertainment to Children concludes, "individual companies in each industry routinely market to children the very products that have the industries' own parental warnings or ratings with age restrictions due to their violent content, end quote. The report also exposed, quote, extensive marketing and in many cases explicit targeting of violent R-rated films to children under the age of 17 and violent PG-13 films to children under 13."

In a follow-up report earlier this year, the FTC found that the movie and electronic games industry had made some progress on both fronts, but that the music recording industry had made no visible response to the September report. The Commission found that the music industry, recording industry, unlike the movie and electronic games industry, had not implemented the reforms its trade association announced just before the Commission issued its report. Regrettably, the Commission also concluded that advertising for explicit-content-labeled music recordings routinely appeared on popular teen television programs. As many know, while some of these albums have lyrics promoting misogyny, police hating and other types of plain hate, the lyrics which, of course, in this particular example by Eminem, Kill You, that we can't even put into the record or we can't even quote today, adults have a right and choice to listen to these products. However, it is a result of these same products not only falling into the hands of children, but as it now appears from the report, they are being marketed toward children.

There is a huge outcry, of course, from this committee and the committee that I chair. So like all of us, we are a proponent of small government, but when this industry fails to institute a meaningful and self-regulatory program, I think the parents and members of the community believe government has an obligation to do something, to intervene.

Similar legislation that does this has been referred to the subcommittee I chair, which is called Commerce, Trade and Consumer Protection Subcommittee, and it declares that targeted marketing to minors of an adult-rated motion picture, music recording or electronic game shall be treated as a deceptive act or practice within the meaning of the Federal Trade Commission Act and considered unlawful unless the producer or distributor responsible for advertising or marketing adheres to a voluntary self-regulatory system that comports with criteria established by the FTC.

Mr. Chairman, though legislation at this time might not be the right answer, I can tell you what the simple and obvious answer is: the meaningful and wide practice of self-regulation by industry of not marketing harmful material to children. That seems pretty simple. However, I think you and I agree we will not stand idly by as our children are reduced to nothing more than dollar signs and profit margins. Mr. Chairman, as chairman of the Commerce, Trade and Consumer Protection Subcommittee, I intend to work with our ranking members, Mr. Towns and yourself, to find a solution that is both reasonable and well-balanced. And thank you, Mr. Chair.

Mr. UPTON. Thank you.

Mr. Sawyer.

Mr. SAWYER. Thank you, Mr. Chairman, for having these hearings, and I want to thank the members who are here this morning and our witnesses for taking part.

I think it is important to remember where the report that brings us together today came from. It was requested by the previous President in the wake of the Columbine shootings and reflects a problem that is enormously complex. I don't want to minimize the importance of what we are talking about here today, I think it is important, but it is important not to forget the other contributing factors in terms of what happens with youth violence, and it is also important to understand that sometimes we don't measure youth violence in ways that make sense. Too often the crime statistics in this country reflect the entire spectrum of crime and do not get at the core cause. They don't even get at the core measurement of where crime occurs. And let me give you an example.

For the last decade we have seen every mayor in the United States talk about the reduction overall in violent crimes in their cities. The truth of the matter is that most violent crime in America occurs—in fact, it is probably around the world—occurs between the ages of 18 and 35 among men. For the last decade that population as a component of the entire population of the United States has been the smallest that it has been in modern times. Today the largest population component in our Nation's history, those who are enrolled in school right now, is the largest in our Nation's history. It is larger than it was at the point that the baby boom was in school. And as that moves into that violent crime age range, we will see violent crime grow all across the United States.

It is not solely a matter of the entertainment that our children are seeing today. That may be a contributing factor, but I suspect strongly that it is far more a matter of hormones, normal maturation, behavior that has, for millennia, occurred in that age range. It is no accident that it is that age of young men that we ask to go to war.

I just hope we can keep in mind as we think about the subject that we are talking about today and its obvious importance, Mr. Chairman, something very fundamental, and that is the complexity of cause as we look at phenomena that touch our entire society.

Thank you, Mr. Chairman. I yield back the remainder of my time.

Mr. UPTON. Thank you.

Mrs. Cubin.

Mrs. CUBIN. Thank you.

Mr. Chairman, I do have a written statement. I won't repeat the statements that the other members have already said, so I would just make one observation so we can get on to the panel, and that I will be referring to the CD that—by Eminem that was a Grammy-winning CD. And in my mind, the industry, or the organization, or the other entertainers rewarding an entertainer that sings a song or chants or raps, and it is a very appealing beat, it is sort of like a tribal beat, it does draw you in, it is appealing, but then when you hear the words "raping your mother, killing your mother," I think the industry should be embarrassed that a song like that would be an award-winning piece of entertainment. And I also think that when a song or a video game or any other award-winning piece of entertainment is like that, then it encourages other entertainers to do the exact same thing.

I don't in any way want to stop free speech. I am one of the stronger proponents of free speech in this Congress. But we know that this problem is multifaceted, violence in our country, and we know that there are more moms that work, which leaves less time for families to be together and teach their children the responsibilities that they have. We know they have more privileges with fewer responsibilities, and that never works when you are raising a young person.

Some people think guns are the problem. You take guns out of society, and we don't have the problem anymore. None of that is true. It is a combination of all of those things, teaching responsibility and the examples that we set.

So I plead with the industry, don't award songs about suicide and songs about rape and the disgusting things I heard this morning. Don't make those award-winning pieces of entertainment.

I yield back.

[The prepared statement of Hon. Barbara Cubin follows:]

PREPARED STATEMENT OF HON. BARBARA CUBIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WYOMING

Thank you, Mr. Chairman.

I have continuously been disappointed in the behavior of the entertainment industry when it comes to producing violent content and then marketing those products to under aged children.

As a mother, I understand the difficulty of raising children. My children, though, were never subjected to the type and magnitude of violence so prevalent in today's entertainment industry.

When my children visited the local video arcade I didn't think much of them playing games like Contra, Mike Tyson's Punch Out, or Street Fighter.

Violent as those games were for their time, they look like Disney films compared to today's violence-oriented video games. Granted, the percentage of violent, mature-content video games is small compared to the overall number of games available.

My point, however, is that although the number of violent games may be a small percentage, the content—the level and degree of violence—has gotten so poisonous that it influences and affects the children who play them much more than games 10 or 15 years ago.

The realism of games like *Diablo II, Quake* and *Doom* really have dramatic affects on young adults not to mention the children that may come in contact with them.

PC Gamer magazine called Quake, "...the biggest, baddest, bloodiest 3-D action game ever conceived." And USA Today called Quake, "Bloody Amazing."

Set a child in front of one of these games for an hour or two and look into their eyes afterward. It is almost as if you can see their disconnection from reality.

It's obvious why. Graphic pools of blood and severed body parts are pervasive in these games and have a chilling influence on developing minds.

I commend video game manufacturers that are making real strides in producing a greater number of truly entertaining and educational children's video games.

For those video game manufacturers that continue to find the need to produce and sell violent games, I call on them to continue efforts to target these games to the appropriate audience in appropriate markets.

I also call on retailers to continue their efforts to stop the problem at the cash register. Programs that call for carding young adults and children will help prevent—not stop, but prevent—these games from falling into the wrong hands.

As a parent—and maybe someday as a grandparent—I worry about what's down the road for our children in this regard.

Sex, violence and lewdness in movies, video games, and music lyrics are pushing the envelope when it comes to decency—instead of ascending new heights of entertainment content we seem to be continuing a spiral down to new depths.

I wish there was no market for this type of entertainment—and I pray that someday there won't be.

Since there is, though, I expect the music industry, the movie industry, and the video game industry will continue to provide what their audiences are demanding.

The industry—because they will continue to produce this trash—must make life easier for parents in providing information and education to help determine what is right and appropriate for our children.

Rating systems are beneficial but they must be objective and err on the side of our children and not your industry.

Mr. Chairman, I commend you for holding this important hearing. I hope we all feel better about the direction the entertainment industry is going after the hearing. I yield back my time.

Mr. UPTON. Thank you.

Ms. Harman.

Ms. HARMAN. Thank you, Mr. Chairman.

I have some very good friends on this hearing panel, and I would point out to our committee that they are parents, too, and no doubt they wish, as I do, that there was some magic pill we could give our kids at infancy that would direct them to have good values at all times and to make good judgments for themselves. Well, we haven't invented that pill yet. In fact, we haven't invented pills to curb very serious diseases, and I guess I might consider this one of those diseases.

We have invented something else, though. It is called parents. And I think that the primary responsibility for teaching values to our kids, for making judgments about the music, the films, the games our kids listen to and watch and play is with us, the parents. It is hard to do it.

I would point out to this panel, and maybe others have before me, that my first encounter with Eminem lyrics was in my car when one of my kids put the CD on the car stereo. It was horrifying. And that, of course, led to a conversation with my kids about what they listen to, and then a very hard decision which my husband and I had to make about whether one of them could attend an Eminem concert. Probably you have been through this, too, and the answer is not always no, because if the answer is no, that may make the stuff you are trying to teach them about more attractive rather than less attractive.

At any rate, there isn't a magic pill, and there isn't a magic parent, but there is one answer that is wrong here, and that answer is to legislate Federal censorship. And I think that the bill that Senator Lieberman has introduced on the Senate side, as I have said before, is, notwithstanding his good intentions, a dangerous bill, and it will lead to Federal censorship. And frankly, I want to be a better parent, but I know that as the parent I am—I am better equipped to make the judgment about my kids than is the Federal Government.

I look forward to the testimony this morning.

Mr. STEARNS [presiding]. I thank the gentlelady.

Mr. Shimkus, the gentleman from Illinois.

Mr. SHIMKUS. Thank you, Mr. Chairman.

I want to thank our panelists, and the FTC and our colleagues for being here today.

I want to welcome Lorna Williams back to Rayburn 2123, my former staffer. She is somewhere in the back there. I asked her about her baby pictures. We spent a lot of time in this room together, and welcome back. It is great to see you.

This is—everybody has mentioned the importance of this issue. I want to use it to bring my colleagues' attention to a legislation that Ed Markey and I dropped a couple of weeks ago: Dot Kids. It is an attempt to have a safe location, like a section in a library—you know how they have a kids' section in libraries that has helped move kids into a section that is safe—and do the best we can to help when there are not parents observing what they are doing on the Internet.

And I would encourage you all to take a look at that, especially after we look at this guide here and we go to the Internet, games that are available on the Internet and the rating system there. Level zero, none or no violence or explicit sex, nudity. Level zero is none or sports-related. Then you go to level 1, 2, 3 and 4; starting at injury to human beings, to level four, rape or wanton, gratuitous violence. I would say that level zero could be available on a Dot Kids site, and so that is really a benefit. So I want to encourage my colleagues to really look at that legislation. We are very optimistic.

The other problem with this in, the Army we always kept an acronym, KISS: Keep it simple, stupid. This is not simple. I mean, it really isn't, and I think the industry would agree. For every area, whether it be the Internet or movies or TV, we have a different guide, and it is not simple. And I think my colleague Mr. Stupak mentioned it should be. And we ought to help in ways that we can help educate and work with parents, and I don't think that is too much to ask.

We look forward to this hearing. It is always a tough issue when you talk about free speech and constitutional rights, but there is a role for assistance in at least identifying harmful, dangerous material.

Again, my last plug, Dot Kids. It is H.R. 2417. Write it down. Look it up. We want a cosponsorship. And with that, I yield back my time.

Mr. STEARNS. I thank the gentleman.

The gentleman from Oklahoma Mr. Largent is recognized for an opening statement.

Mr. LARGENT. Thank you, Mr. Chairman.

I come to this hearing, not only as a Member of Congress from Oklahoma, but as a parent of four children, four teenagers. And I guess I am not really a neutral panelist here. I have an opinion borne out through experience of my own children to say to the entertainment industry that whatever you are doing, it is not enough.

It is just not enough. Whatever warning labels you are putting on, whatever effort you are doing to self-police, it is not enough. It is clearly not enough.

I am reminded of a book that C.S. Lewis wrote called The Abolition of Man, and in there he talks about bidding the gelding to be fruitful. Bidding the gelding to be fruitful. And I think in many cases that is what we are asking our kids to do today. We have rendered them as geldings as a result of the violence, the sex, the graphic nature of the entertainment both from the recording institution—recording industry, the movie motion picture industry, television. We have rendered them into geldings, and yet we are asking them to be fruitful. Is it any wonder that—you know, that we market tobacco to them, and we find out that teenagers' smoking goes up; we market sex to them, and we find out that abortions and sexually transmitted diseases are rampant in our kids today; we market philandery to them, we find that divorce is at an all-time high; we market violence to them, we find them shooting their fellow students in schools?

That should not surprise any of us, and yet it always garners front-page headlines when these statistics come out. But the fact is we are marketing that to them.

You know, it would have been really interesting to have as a member of this panel here this morning to have the tobacco industry before us, because you see it is politically correct to attack the tobacco industry, another legal entity, another legally sold product, just like the motion picture industry, recording industry, all the entertainment industries, another legal product being marketed. But if they were at the table, we would be hearing from people on both sides of this dais about how bad it is that you are marketing tobacco to our children.

Well, I will tell you that I feel like some of the efforts of the entertainment industry are equally damaging to the psyche of our kids today, and I couldn't agree more that parents are the front line of defense for our kids. There is no question about that. I know that as a parent. But I will tell you that in today's culture, the entertainment industry is a powerful influence in all of our children's lives. I don't have the statistics before me, but I know they are significant in terms of the amount of—just the amount of time that our kids spend either listening to music, watching videos, watching TV versus the time that they spend with their parents or teachers. The people that we want to have the most influence, just frankly, are not getting as much face time with our kids as the entertainment industry.

It is a powerful medium, and it is also a powerful medium for good, tremendous good. I can think of many songs that have been influential in my life and my kids' life and motion pictures that have the ability to promote and sell a very positive message of love and romance and helping your fellow man, a very powerful influence. And that is why I think that it really is incumbent upon this industry to regulate itself. It shouldn't be our responsibility, but I am afraid that it is not going to be until mothers and fathers like myself rise up and say enough is enough. We don't need any more studies. We know what the impact is of the violence that you sell to our kids and to our society. We know that. We don't need any more studies.

What it is going to take, I believe, is for mothers and fathers across this Nation to rise up and say that is enough. We don't need a bill passed by Congress. That is not going to affect it. What we are going to need is mothers and fathers like myself and my wife, my friends and neighbors to say, that is it. No more. No more.

So, Mr. Chairman, I am pleased that we are holding this hearing, and hopefully we can draw attention to some of the more extreme elements, in particular the recording industry, and ask for this industry's help, additional help, in self-regulating the products that they are selling to our children.

I yield back the balance of my time.

Mr. UPTON. Thank you.

I would note for the record that the House has completed its legislative duties for the day, so I will ask that any member of either this subcommittee or Cliff Stearns' subcommittee, that their opening statements be made part of the record under unanimous consent.

[Additional statements submitted for the record follow:]

PREPARED STATEMENT OF HON. NATHAN DEAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Good Morning and thank you, Mr. Chairman, for holding this hearing regarding the entertainment industry's efforts to curb children's exposure to violent content.

Over the years, Congress has tried to determine how much of an influence the entertainment industry has had in the lives of minors. Because of the recent school shootings and much publicized violence among youth the Federal Trade Commission (FTC) conducted an extensive study that found that entertainment companies were intentionally marketing adult-rated products to minors. This study reviewed several various investigations into the impact of media violence on children, and found that there was a high correlation between exposure to media violence and violent behavior.

Working to correct the problem, the FTC called on various branches of the entertainment industry; including motion pictures, music recording, and electronic games, to adopt policies prohibiting these practices and working to enforce these policies with rating systems. We have seen each of these industries adopt their own type of model for addressing the issue warning parents and children use to determine the violent content level. Each industry has come up with a system of ratings and guidelines to help parents and minors to have a greater understanding of what they are purchasing.

While this is a good start, I am concerned that there are still some problems with the way the entertainment industry has routinely targeted advertising and marketing of its violent entertainment products to minors, especially the music recording industry.

I thank the Chairman for focusing on this issue, and look forward to hearing from our witnesses.

PREPARED STATEMENT OF HON. BILL LUTHER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Thank you, Mr. Chairman, for recognizing me, and I want to welcome our distinguished panel.

I want to commend the Federal Trade Commission for the excellent work it has been doing with regard to the entertainment industry's practice of marketing adult-rated material to minors. I think I can safely say that most of us in Congress were outraged by last year's report revealing these marketing practices. The Commission's April 2001 follow-up report has been equally enlightening—we can clearly gauge the progress (or lack thereof) that the entertainment industry has made regarding its marketing practices.

I think it's absolutely unnecessary (and wrong) for the entertainment industry to specifically and intentionally target our youth with advertisements promoting graphically sexual and violent products. I don't really think the First Amendment is at issue here. We are not talking about restricting the freedom of expression, but rather we are talking about voluntary restrictions on *advertising* schemes. I think the two concepts are distinct. As such, I want to applaud those industries that have begun to make reforms in their marketing practices—with the understanding that much more can be done. And I very much look forward to hearing why some sectors of the entertainment industry have not begun the job of cleaning up their acts.

Thank you, Mr. Chairman, and I yield back the balance of my time.

Mr. UPTON. With that, I appreciate the testimony that our panel has delivered.

Now we are joined on our panel by Mr. C. Lee Peeler, Associate Director of Advertising Practices of the Federal Trade Commission; Mr. Douglas Lowenstein, President of the Interactive Digital Software Association; Mr. Jack Valenti, President and CEO of the Motion Picture Association of America; Ms. Hilary Rosen, President and CEO of the Recording Industry Association of America; Mr. Doug McMillon, Senior VP and General Merchandise Manager of Wal-Mart; and Ms. Daphne White, Executive Director of the Lion and the Lamb Project. Your statements will be made part of the record in their entirety, and we ask you to limit your remarks, opening statements, to 5 minutes.

And, Mr. Peeler, we will start with you. Welcome.

STATEMENTS OF C. LEE PEELER, ASSOCIATE DIRECTOR OF ADVERTISING PRACTICES, FEDERAL TRADE COMMISSION; DOUGLAS LOWENSTEIN, PRESIDENT, INTERACTIVE DIGITAL SOFTWARE ASSOCIATION; JACK VALENTI, PRESIDENT AND CHIEF EXECUTIVE OFFICER, MOTION PICTURE ASSOCIATION OF AMERICA; HILARY B. ROSEN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, RECORDING INDUSTRY ASSOCIATION OF AMERICA; DOUG McMILLON, SENIOR VICE PRESIDENT AND GENERAL MERCHANDISE MANAGER, WAL-MART STORES, INC.; AND DAPHNE WHITE, EXECUTIVE DIRECTOR, THE LION AND LAMB PROJECT

Mr. PEELER. Thank you. I appreciate the opportunity to appear before you today. As the chairman and members of the committee have underscored in their opening remarks, the subject of today's hearing, the marketing of violent entertainment products to children, is an important concern of America's parents. In response to requests from the Congress and the White House, the Federal Trade Commission has to date conducted two studies of this issue and is in the process of completion of a third study. My testimony today describes the findings of our first two studies and the status of our current review.

The Commission's first report on the marketing of violent entertainment products to children was issued in September 2000. It examined the advertising and marketing practices of the motion picture, recording and electronic games industry. The Commission's study found that individual companies in each industry routinely marketed to children the very products on which their own self-regulatory programs had placed parental warnings or ratings with age restrictions due to their violent content. For many of these products, the Commission found evidence of marketing and media plans that expressly targeted children under 17. In addition, companies' marketing plans showed strategies to promote and advertise their products in media outlets most likely to reach children under 17, including advertising on television programs most popular with teens; advertising in high school newspapers and teen-oriented magazines; placing ads on Internet sites popular with teens; distributing posters, free passes and other giveaways at teen hangouts, such as game rooms, pizza parlors and video stores; and showing rough cuts of R-rated films to children as young as 10 or 12 to see what in the films most appealed to them.

The September 2000 study also found that although the National Association of Theater Owners and certain retailers had taken steps to restrict sales of these products to children, children could readily purchase violent entertainment products. Just over half the movie theaters in our survey in May through July 2000 admitted unaccompanied children ages 13 to 16 to R-rated films, and unaccompanied children ages 13 to 17 were able to buy both explicit-content recordings and mature-rated electronic games 85 percent of the time.

Finally, consumer surveys done for the September 2000 report revealed high levels of parental concern about violence in movies, music and video games. Although these surveys show that parents highly value the existing rating and labeling systems, the surveys also indicate that many parents believe the rating systems could do a better job of informing them of the violent content in entertainment products.

In response to our September 2000 report, the Senate Commerce Committee requested the FTC to prepare two additional reports. In April 2001, the Commission issued its first follow-up report, which is a snapshot of current practices based on a review of publicly available advertising and marketing data. This report concluded that the motion picture industry and the electronic game industry had made some progress both in limiting advertising in certain popular teen media and in providing rating information in advertising, but that more remained to be done by each industry. In contrast, the Commission found that the music recording industry had not visibly responded to the Commission's September 2000 report beyond making the lyrics for recordings more readily available on Websites.

The Senate Commerce Committee also requested the Commission to prepare a second, significantly more comprehensive report to be issued in the fall of 2001. The staff is currently preparing this report. The report will not only review advertising placements and disclosure of ratings information in advertising, but will also seek detailed information from selected industry members, including their marketing plans. The fall report will also include the results of a second undercover shopping survey to see if these products are sold to children without their parents' presence.

In conclusion, let me say that despite the concerns about the existing self-regulatory efforts, because of First Amendment issues, the Commission continues to believe that vigilant self-regulation is the best approach to ensuring that parents are provided with adequate information to guide their children's exposure to entertainment media with violent content. Although the Commission was encouraged by the motion picture and electronic games industry's initial responses to its 2000 report, more clearly remains to be done by each industry to ensure that its marketing and advertising do not undermine the cautionary messages in their ratings and labels.

The Commission greatly appreciates both the interest and support these studies have received from the U.S. Congress and the opportunity to provide the Congress with the information necessary for its oversight of this important issue. Thank you.

[The prepared statement of C. Lee Peeler follows:]

Prepared Statement of C. Lee Peeler, Associate Director, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission

I. INTRODUCTION

Mr. Chairman, I am Lee Peeler, Associate Director of the Division of Advertising Practices of the Federal Trade Commission's Bureau of Consumer Protection. I appreciate this opportunity to discuss the Commission's reports on the marketing of violent entertainment products to children by the motion picture, music recording, and electronic games industries.[1] The Commission issued its first report last September and a follow-up report this past April. The September report answered two questions: Do the motion picture, music recording, and electronic game industries promote products that they themselves acknowledge warrant parental caution in venues where children make up a substantial percentage of the audience? And, are these advertisements intended to attract children and teenagers? After a comprehensive 15-month study, the Commission found that the answers to both questions were plainly "yes."

The April Report was narrower. It looked at whether the entertainment media companies were continuing to advertise violent entertainment products in popular teen media, and whether the advertisements contained rating information. The Commission found that the movie and elecronic games industries had made some progress on both fronts, but that the music recording industry had made no visible response to the September Report. The Commission urged the industries to make a greater effort to meet the suggestions for improvement outlined in its September Report as well as the industries' own promises for reform.

All three industries studied have self-regulatory systems that purport to rate or label their products to help parents make choices about their children's entertainment. Notwithstanding, the Commission concluded in its September Report that members of each industry routinely targeted advertising and marketing for violent entertainment products directly to children. The Commission believes that such advertising and marketing efforts undermine each industry's parental advisories and frustrate parents' attempts to protect their children from inappropriate material.

II. BACKGROUND

The Federal Trade Commission is the federal government's principal consumer protection agency. Congress has directed the Commission, under the FTC Act, to take action against "unfair or deceptive acts or practices" in almost all sectors of the economy and to promote vigorous competition in the marketplace.[2] With the exception of certain industries and activities, the FTC Act provides the Commission with broad investigative and law enforcement authority over entities engaged in, or whose business affects, commerce.[3] The FTC Act also authorizes the Commission to

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[1] The views expressed in this statement represent the views of the Commission. My oral statement and responses to questions you may have are my own and are not necessarily those of the Commission or any individual Commissioner.

[2] 15 U.S.C. § 45(a).

[3] The Commission also has responsibility under 46 additional statutes governing specific industries and practices. These include, for example, the Truth in Lending Act, 15 U.S.C. §§ 1601 *et seq.*, which mandates disclosures of credit terms, and the Fair Credit Billing Act, 15 U.S.C. §§ 1666 *et seq.*, which provides for the correction of billing errors on credit accounts. The Commission also enforces over 30 rules governing specific industries and practices, e.g., the Used Car Rule, 16 C.F.R. Part 455, which requires used car dealers to disclose warranty terms via a window sticker; the Franchise Rule, 16 C.F.R. Part 436, which requires the provision of information to prospective franchisees; the Telemarketing Sales Rule, 16 C.F.R. Part 310, which defines and prohibits deceptive telemarketing practices and other abusive telemarketing practices; and the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312.

The Commission does not, however, have criminal law enforcement authority. Further, under the FTCA, certain entities, such as banks, savings and loan associations, and common carriers, as well as the business of insurance, are wholly or partially exempt from Commission jurisdicconduct studies and collect information, and, in the public interest, to publish reports on the information it obtains.[4]

On June 1, 1999, following the horrifying shooting incident at Columbine High School in Littleton, Colorado, then-President Clinton requested that the Federal Trade Commission and the Department of Justice conduct a study of whether violent entertainment material was being advertised and promoted to children and teenagers.[5] The request paralleled congressional proposals for such a study.[6] Revelations that the teen-aged shooters at Columbine High School had been infatuated with extremely violent movies, music, and video games reinvigorated public debate about the effects of violent entertainment media on youth.

III. THE COMMISSION'S STUDY

A. Scope of the Study

In response to the request, the Commission, with financial assistance from the Justice Department, collected information from the motion picture, music recording, and electronic game industries regarding their self-regulatory systems and marketing practices.[7] The Commission requested information from the principal industry trade associations, as well as the major motion picture studios, the music recording companies, and electronic game companies.[8] In addition, the Commission contacted interested government agencies, medical associations, academics, and parent and consumer advocacy groups.[9] We reviewed information collected from consumers through various surveys and polls, and also designed and conducted our own surveys for this study.[10] Specifically, we surveyed parents and children regarding their understanding and use of the rating and labeling systems, and how they made purchase decisions for these entertainment products.[11] We also conducted an undercover survey of retail stores and movie theaters to see if unaccompanied children under 17 could purchase or gain access to products labeled as inappropriate or war-

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tion. *See* Section 5(a)(2) and (6)a of the FTC Act, 15 U.S.C. § 45(a)(2) and 46(a). *See also* The McCarran-Ferguson Act, 15 U.S.C. § 1012(b).

[4] 15 U.S.C. §§ 46(b) and (f). Section 46(f) of the FTC Act provides that "the Commission shall also have the power . . . to make public from time to time such portions of the information obtained by it hereunder as are in the public interest; and to make annual and special reports to Congress . . ."

[5] *See* Letter from William J. Clinton, President of the United States, to Janet Reno, Attorney General of the United States, and Robert Pitofsky, Chairman, Federal Trade Commission (June 1, 1999) (on file with the Commission).

[6] Legislation calling for the FTC and the Justice Department to conduct such a study was introduced in both houses of Congress following the Columbine incident. *See* Amendment No. 329 by Senator Brownback *et al.* to the *Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999*, S. 254, 106th Cong. § 511 (1999); H.R. 2157, 106th Cong. (1999); 145 Cong. Rec. S5171 (1999). In May 1999, the U.S. Senate Committee on Commerce, Science, and Transportation conducted hearings on the marketing of violent entertainment media to children. *See Marketing Violence to Children: Hearing Before the Senate Comm. on Commerce, Science, and Transp.*, 106th Cong. (1999), www.senate.gov/~commerce/hearings/hearin99.htm (visited July 30, 2000). Based on those hearings, in September 1999, the Majority Staff of the Senate Committee on the Judiciary issued a committee report on this issue. *See* Majority Staff of the Senate Comm. on the Judiciary, 106th Cong., *Report on Children, Violence, and the Media: A Report for Parents and Policy Makers* (Comm. Print. 1999), www.senate.gov/~judiciary/mediavio.htm (visited July 31, 2000).

[7] The Justice Department provided the FTC with substantial funding and technical assistance to enable the FTC to collect and analyze public and non-public information about the industries' advertising and marketing policies and procedures, and to prepare this written report and appendices. The analysis and conclusions contained in the Report are those of the FTC.

[8] The Commission received information from about 50 individual companies, as well as the Motion Picture Association of America (MPAA), the National Association of Theatre Owners (NATO), the Recording Industry Association of America (RIAA), the National Association of Recording Merchandisers (NARM), the Entertainment Software Rating Board (ESRB), the Video Software Dealers Association (VSDA), the Interactive Digital Software Association (IDSA), the Internet Content Rating Association (ICRA), the Software and Information Industry Association (SIIA), the Interactive Entertainment Merchants Association (IEMA), and the American Amusement Machine Association (AAMA).

[9] In addition to industry sources, the Commission received information from a wide range of consumer, medical, and advocacy organizations. The American Academy of Pediatrics, American Psychological Association, Center on Media Education, Center on Media and Public Affairs, Children Now, Commercial Alert, Lion and Lamb Project, Mediascope, National Institute on Media and the Family, National PTA, and Parents' Music Resource Center were among the organizations that provided information to the Commission.

[10] *See* Appendix E (*Entertainment Industry Information Requests*) of the Commission's September 2000 Report.

[11] *See* Appendix F (*Mystery Shopper Survey and Parent-Child Survey*) of the Commission's September 2000 Report.

ranting parental guidance.[12] Finally, we reviewed Internet sites to study how they are used to market and provide direct access to these products.

B. The Entertainment Media Industry Self-Regulatory Systems

The entertainment industries have recognized the public's concern about children's exposure to violent entertainment and have taken steps to alert parents to violent or explicit content through self-regulatory product rating or labeling programs. Each of these programs addresses violence, as well as sexual content, language, drug use and other content that may be of concern to parents.

The motion picture industry uses a rating board to rate virtually all movies released in the United States, requires the age-related rating to appear in advertising, and makes some effort to review ads for rated movies to ensure that their content is suitable for general audiences. The music recording industry recommends the use of a general parental advisory label on music with "explicit content." The artist and the music publishing company decide whether to place a parental advisory label on a recording and there is no independent third-party review; nor does the industry provide for any review of marketing and advertising. The electronic game industry uses a rating board to assign an age- and content-based rating, and requires that game packages bear the rating and that the rating information appear in advertising. It also is the only industry that has adopted a rule prohibiting its marketers from targeting advertising for games to children below the age designations indicated by the rating.

IV. THE FINDINGS OF THE SEPTEMBER 2000 REPORT

The Commission carefully examined the structure of these rating and labeling systems, and studied how these self-regulatory programs work in practice. We focused on the marketing of products designated as violent under these systems. We did not examine the content itself, but accepted each industry's determination of whether a particular product contained violent content.

The Commission found that despite the variations in the three industries' systems, the outcome was consistent: individual companies in each industry routinely marketed to children the very products that have industries' self-imposed parental warnings or ratings with age restrictions due to violent content. Indeed, for many of these products, the Commission found evidence of marketing and media plans that expressly targeted children under 17. In addition, the companies' marketing and media plans showed strategies to promote and advertise their products in the media outlets most likely to reach children under 17. These documents showed plans to advertise these products on television programs ranked as the "most popular" with the under-17 age group, such as *Xena: Warrior Princess, The Simpsons, WWF Smackdown,* and MTV's *Total Request Live;* in magazines and on Internet sites with a majority or substantial (i.e., over 35 percent) under-17 audience, such as *Game Pro, Seventeen* and *Right On!,* as well as *mtv.com, ubl.com* and *happypuppy.com;* and in teen hangouts, such as game rooms, pizza parlors, and sporting apparel stores.

Movies. Of the 44 movies rated R for violence the Commission selected for its study, the Commission found that 80 percent were targeted to children under 17. Marketing plans for 64 percent contained express statements that the film's target audience included children under 17. Though the marketing plans for the remaining seven R-rated films did not expressly identify an under-17 target audience, they led the Commission to conclude that the companies nonetheless targeted children under 17. That is, the plans either were extremely similar to the plans of the films that did identify an under-17 target audience, or detailed actions synonymous with targeting that age group, such as promoting the film in high schools or in publications with majority under-17 audiences.

Music. The Commission found that all 55 of the explicit content-labeled music recordings studied were targeted to children under 17. The marketing plans for 27 percent expressly identified teenagers as part of their target audience. The marketing documents for the remaining recordings did not expressly state the age of the target audience, but they detailed the same methods of marketing as the plans that specifically identified teens as part of their target audience, including placing advertising in media that would reach a majority or substantial percentage of children under 17.

Games. Seventy percent of the 118 electronic games with a Mature rating for violence the Commission examined targeted children under 17. The marketing plans for 51 percent of these expressly included children under 17 in their target audience. Documents for the remaining games showed plans to advertise in magazines or on television shows with a majority or substantial under-17 audience.

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[12] *Id.*

Further, although the National Association of Theatre Owners and some retailers had policies limiting the sale of rated or labeled products even before the Commission's study, most retailers made little effort to restrict children's access to products containing violence. Surveys conducted for the Commission in May through July 2000 found that just over half the movie theaters admitted children ages 13 to 16 to R-rated films even when not accompanied by an adult. The Commission's surveys of young people indicated that, even when theaters refuse to sell tickets to unaccompanied children, they have various strategies to see R-rated movies. The Commission's surveys also showed that unaccompanied children ages 13 to 16 were able to buy both explicit content recordings and Mature-rated electronic games 85 percent of the time.

Although consumer surveys show that parents value the existing rating and labeling systems, they also show that parents' use and understanding of the systems vary. The surveys also consistently reveal high levels of parental concern about violence in the movies, music, and video games their children see, listen to, and play. These concerns can only be heightened by the extraordinary degree to which young people today are immersed in entertainment media, as well as by recent technological advances such as realistic and interactive video games. The survey responses indicate that many parents believe the rating systems could do a better job of informing them of the violent content in entertainment products.

V. CONCLUSIONS OF THE SEPTEMBER 2000 REPORT

The findings summarized above led the Commission to recommend that all three industries enhance their self-regulatory efforts.[13] The Commission suggested that the industries:

1. *Establish or expand codes that prohibit target marketing to children and impose sanctions for noncompliance.* All three industries should improve the usefulness of their ratings and labels by establishing codes that prohibit marketing R-rated/M-rated/explicit-labeled products in media or venues with a substantial under-17 audience. In addition, the Commission suggested that each industry's trade associations monitor and encourage their members' compliance with these policies and impose meaningful sanctions for non-compliance.
2. *Increase compliance at the retail level.* Restricting children's retail access to entertainment containing violent content is an essential complement to restricting the placement of advertising. This can be done by checking identification or requiring parental permission before selling tickets to R movies, and by not selling or renting products labeled "Explicit" or rated R or M, to children.
3. *Increase parental understanding of the ratings and labels.* For parents to make informed choices about their children's entertainment, they must understand the ratings and the labels, as well as the reasons for them. That means all the industries should include the reasons for the rating or the label in advertising and product packaging and continue their efforts to educate parents—and children—about the meanings of the ratings and descriptors. Industry should also take steps to better educate parents about the ratings and labels.

VI. FINDINGS OF THE APRIL 2001 FOLLOW-UP REPORT

In January 2001, the Senate Commerce Committee requested that the Commission prepare two reports following up on its September 2000 Report, to be issued in the Spring and Fall of 2001. The Committee asked the Commission to focus its review on two of the issues examined in the September 2000 Report: 1) whether the entertainment media industries continue to advertise violent R-rated movies, explicit-content labeled music, and M-rated electronic games in popular teen media, and 2) whether the entertainment media are including rating information in their advertising. In April 2001, the Commission issued its first follow-up report.

The Commission's review indicated that the entertainment media industry had made some progress both in limiting advertising in certain popular teen media and in providing rating information in advertising but that more remained to be done.

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[13] The Commission's support for enhanced industry self-regulation in the advertising context is motivated in part by our strong belief in the benefits of self-regulation, and in part by our concern that government regulation of advertising and marketing—especially if it involves content-based restrictions—may raise First Amendment issues. The First Amendment issues that have been raised in the context of restricting or limiting advertisements for media products are identified in Appendix C of the Commission's September 2000 Report (*First Amendment Issues in Public Debate Over Governmental Regulation of Entertainment Media Products with Violent Content*).

Movies. The Commission found that the motion picture industry had made some positive changes to its advertising practices. Specifically, the Commission found virtually no advertisements for R-rated movies in the popular teen magazines reviewed. A spot-check of movie trailer placement revealed general compliance with the industry's commitment not to run trailers for R movies in connection with G- and PG-rated feature films. The motion picture studios now routinely include reasons for ratings in their print and television advertisements. Further, at least three-quarters of the official movie Web sites reviewed included the film's rating, the reasons for the rating, and links to sites where information on the rating system may be obtained. However, ads for R-rated movies still appeared on the television programs most popular with teens, and the rating reasons in ads were usually small, fleeting, or inconspicuously placed.

Games. The Commission's Spring 2001 review showed some improvement in the electronic game industry's advertising practices. The Commission found no ads for M-rated games on the popular teen television programs reviewed. The game company print ads, with only one exception, always included the game's rating icon and, in nearly all instances, content descriptors. Television ads gave both audio and video disclosures of the game's rating, and more than 80 percent of the official game publisher Web sites displayed the game's rating. However, the electronic game industry had not stopped placing ads for M-rated games in magazines with a substantial under-17 audience. The Commission also found that rating icons and descriptors in the print ads, while readable, were often smaller than required by the industry code; television ads never included the content descriptors; only a little more than half the Web sites reviewed displayed the rating clearly and conspicuously; and just 25 percent displayed the content descriptors anywhere on the site.

Music. The Commission found that the music recording industry, unlike the motion picture and electronic game industries, had not visibly responded to the Commission's September 2000 Report; nor had it implemented the reforms its trade association announced just before the Commission issued that Report. The Commission's review showed that advertising for explicit-content labeled music recordings routinely appeared on popular teen television programming. All five major recording companies placed advertising for explicit content music on television programs and in magazines with substantial under-17 audiences. Furthermore, ads for explicit-content labeled music usually did not indicate that the recording was stickered with a parental advisory label. Even when the parental advisory label was present, it frequently was so small that the words were illegible, and the ads never indicated why the album received the label. None of the recording company/artist Web sites the Commission reviewed linked to an educational Web site for information on the labeling system. The single positive note was that almost 40 percent of the Web sites included the music's lyrics, a step that can help parents screen recordings.[14]

VII. THE COMMISSION'S CURRENT STUDY

The Senate Commerce Committee requested a second, more comprehensive, report to be issued in the Fall of 2001, which the Commission staff is currently preparing. In addition to reviewing advertising placement in popular teen media and checking ads in all media to see if they include clear and prominent rating information, the Commission is also seeking detailed information from individual industry members, including marketing plans for R-rated movies, explicit-content labeled music, and M-rated games released since the Commission issued its report last September. It will include the results of an undercover shopping survey to see if these products are sold to children without their parents present. The Fall 2001 report will also discuss industry compliance with commitments made following the September 2000 Report.

VIII. CONCLUSIONS

Because of First Amendment issues, the Commission continues to believe that vigilant self-regulation is the best approach to ensuring that parents are provided with adequate information to guide their children's exposure to entertainment media with violent content. The Commission is encouraged by the motion picture and electronic game industries' initial responses to its September 2000 Report, but it is disappointed by the almost complete failure of the music recording industry to institute any positive reforms.

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[14] The April Report provided a snapshot of advertising practices by some industry members a few months after publication of the Commission's September 2000 Report. Thus, it cannot be statistically projected to industry advertising as a whole. In addition, because it relied on advertising monitoring rather than internal industry documents, its results cannot be directly compared to the results of the review conducted for the September 2000 Report. Also, the review did not include information on children's access to these products at the retail level.

More remains to be done by each industry. To avoid undermining the cautionary message in their ratings and labels, the industries should avoid advertising their products in the media most watched and read by children under 17. The challenge remains to make rating explanations as ubiquitous in advertisements as the rating itself and to present this important information clearly and conspicuously. The Commission urges individual industry members both to keep the industry's own commitments and to go beyond those commitments to meet the recommendations the Commission made in its September 2000 Report.

Mr. UPTON. Thank you.

Mr. Lowenstein.

STATEMENT OF DOUGLAS LOWENSTEIN

Mr. LOWENSTEIN. I hope I can be as good on the clock as Mr. Peeler. He hit 5 minutes on the mark.

Mr. UPTON. It is practice. He has been here before.

Mr. LOWENSTEIN. Thank you very much for having me here today. The video game industry has taken some extraordinary and I think unique steps to ensure that mature-rated titles are marketed responsibly and authorize sanctions against companies that violate our extensive advertising guidelines.

I want to start, though, before getting into some of the details of that, by dispelling the myth that most gamers are kids. In truth, 145,000,000 Americans play video games and their average is not 12, it is not 14, it is not 16. It is 28 years old. Sixty-one percent of all game players are over 18, 35 percent are over 35 years old, and 43 percent of them are women.

In short, we serve a mass market made up of players of all ages and all tastes, and their interests in the types of games they want to play range from sports games to puzzle games to games based on TV shows to racing games and action and adventure games, some of which have, in fact, violent content.

But an important point to understand is that most games do not, in fact, contain violent content. Seventy percent are rated as appropriate for everyone ages 6 and up by a rating system that even industry critics have acknowledged is very reliable and credible. Last year, only 117 of the 1,600 games released were rated mature for users due to violence. And I might note that the best-seller lists also reflect the fact that most games that are popular don't have violent content. Only two of the top 20 best-sellers this year, for example, are rated as mature.

This brings me to the issue of kids and mature-rated games. The fact is that the FTC's own survey confirms that parents are almost always involved in buying the games their kids play. In quoting from the FTC's first report, "it is clear that most parents are able to play a watchdog role when they choose to do so." According to parents' responses to the FTC survey, 83 percent are involved in the actual purchase transaction. FTC also found out, when we talk about parental responsibility, that in 49 percent of the cases where parents are aware of the rating system, they opt not to use it.

So, again, I think those are important points to bear in mind.

For over 7 years, the video game industry now has been committed to effective self-regulation. We created the highly praised Entertainment Software Rating Board. We have implemented a sweeping advertising code of conduct. We have distributed and produced PSAs featuring Tiger Woods, for example. This is an example of that advertising and public service announcements. We have distributed ratings brochures to retailers of this sort. In fact, Attorney General Granholm of Michigan, I believe, has distributed over 100,000 of these brochures to consumers in her State. We have worked with retailers to prevent the sale of mature-rated games to minors. And that is just a partial list.

Let me now quickly turn to the FTC report. We certainly appreciated some of the complimentary remarks that the agency had made in both of those reports. And I want to say that the finding, for example, in the first report that some game company marketing plans aimed mature-rated product to 12-year-olds is completely and totally indefensible, and it is one reason why we moved soon after that to look at ways to strengthen the system we have in place.

In March of this year, we completed a process that we began 9 months ago in which our board took the extraordinary step of, having always restricted our advertising to audiences for whom the games were not rated as appropriate, we beefed that up dramatically by adopting explicit guidelines governing the marketing of mature-rated games to persons under 17 years old, including a ban on advertising those games in magazines, where 45 percent or more of the readers are under 17, and on television programs, where 35 percent or more of the viewers are under 17.

But equally significant, we created a unique monitoring and enforcement capability within our autonomous ratings board and authorized the imposition of monetary and other sanctions for companies that violate these marketing and advertising guidelines.

Now I know of no other industry—we have heard the tobacco industry mentioned here today, but I know of no other industry that has adopted such far-reaching guidelines and coupled them with actual enforcement sanctions against companies that violate those guidelines. We have not been perfect as an industry. I will be the first to admit that. And we do have a responsibility to educate consumers and we need to take that responsibility seriously, and we have done so. We have put out volumes of information about the ESRB ratings. We have empowered consumers to make informed choices. And the FTC and others acknowledge that parents are, in fact, in a position to control the games that come to their home. But at some point the responsibility of parents really kicks in, because I submit to you that there is no law that Congress can come up with that can mandate sound and responsible parenting.

We have lots of problems with youth violence in this country, but I think we are doing our part to address them.

[The prepared statement of Douglas Lowenstein follows:]

PREPARED STATEMENT OF DOUGLAS LOWENSTEIN, PRESIDENT, INTERACTIVE DIGITAL SOFTWARE ASSOCIATION

Good morning, and thank you for inviting me to testify today on the interactive entertainment industry's response to last year's Federal Trade Commission report on entertainment industry marketing practices, and its follow up report this past Spring. I am testifying today on behalf of the Interactive Digital Software Association[1] the trade body representing U.S. video and computer game software companies. Our members publish games for use in the home. In 2000, the industry generated $6 billion in retail software sales. Analysts forecast that industry sales will reach $10-15 billion in the United States alone within the next five years. Of special interest to this Subcommittee is the fact that 40 million Americans play games on the Internet today, interactive entertainment sites were the fastest growing sites on the Web in 2000, and in March 2001, roughly one-half of all US Internet users spent time playing games.

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[1] IDSA's members only publish software for the home. The arcade game business is a different sector with its own representatives.

I would like to divide my testimony into three sections: first, a discussion offering some critical and important background about our industry, our markets, and our products; second, a review of self regulatory initiatives we have taken over the years to ensure the responsible labeling and marketing of video and computer games to consumers and; third, a review of actions taken since the FTC reports.

INDUSTRY BACKGROUND

Majority of Game Players are Adults, not Kids

I'd like to start by addressing two of the great myths about the video game industry. First, the myth that video games are played predominantly by teenage boys. This is wrong.

In fact, the primary audience for video games is NOT adolescent boys. According to research by Peter Hart last year, 145 million Americans say they play computer and video games, and their average age is 28 years old; 61 percent of all game players are over 18, 35% are over 35 years old, and 13% are over 50; 43% of those who play computer and video games are women.

70% Of Games Appropriate for Everyone; only 9% Are Rated Mature

Second, let me dispel the myth that most video games are rated Mature and have significant levels of violence. Again, this is inaccurate. With the demographics of the industry changing rapidly, so too has the type and mix of products published by game companies. Contrary to popular perceptions, most games do not contain significant levels of violence. In fact, the video game rating system the industry voluntarily set up six years ago, and which has been widely praised (the FTC called it "the most comprehensive" of any of the systems it studied), has rated nearly 8,500 titles of which only 9% carry a Mature rating indicating significant violent content. Seventy percent are rated for Everyone over six. In 2000, only 117 out of over 1,600 titles released were Mature games, and these represented just 9% of total sales.

Not only are most games appropriate for everyone, but also most of the best sellers are not violent. For example, in the last six months, the top selling games have been the Sims, Pokemon, Roller Coaster Tycoon, and racing and sports games. In 2000, only two of the top selling PC and video games year were rated M, and 16 were rated Everyone. So far through June 2001, only two of the top selling computer and video games are rated mature, compared to twelve that are rated "E" and six that are rated "T".

What all this reflects is the fact that video games are now mass market entertainment and the range and diversity of products has widened, resulting in a substantial market for casual games like puzzle, board, and card games, and hunting and fishing titles, in addition to staples like racing, football, and action games.

In short, this industry has seen its sales double since 1995 and the bulk of that growth has been fueled by consumers over the age of 18 and by games whose content has broad appeal.

Parents and Adults, not Kids. Actually Purchase at least Eight out of Ten Games

One last critical point of context: unlike other entertainment products, most newly released video games cost anywhere from $40-60. Thus, it's not surprising then, when you add this to the fact that a majority of consumers are adults that IDSA research finds that nine out of every ten video games are actually purchased by someone over 18. Furthermore, 83% of the kids who do buy games say they have the permission of their parents to do so. Similarly, in a survey completed by Peter Hart last Fall, 83% of parents said they "try to watch or play at least once every game that their child plays to determine whether it is appropriate."

Notably, the FTC's own survey confirms these findings. "It is clear that most parents are able to play a watchdog role when they choose to do so... According to parents' responses, [83%] are involved in the actual purchase transaction; 38% report that they usually purchase or rent the games, and another 45% of parents do so together with the child."

So any discussion of how our industry markets its products must bear in mind the fact that a majority of those who buy and use our products are adults, not kids, so parents are still almost certainly going to be involved in the actual purchase. As the FTC said,

> "This level of parental involvement, either at the point of selection or purchase, means that most parents have the opportunity to review rating information or to check the product packaging to determine whether they approve of the game's content."

Put another way: if a child has a game that's not appropriate for him or her, chances are that Mom or Dad is the one who bought it.

This does not mean our industry does not have an obligation to market products responsibly and to label them accurately. But it does mean that parents are the first, last, and best line of defense against products that are not appropriate for their children.

COMMITMENT TO EFFECTIVE SELF-REGULATION

The video and PC game industry has been committed to effective self-regulation since the formation of the IDSA in 1994. We have consistently and continuously sought to respond to concerns about the small number of our products that contain significant violence, balancing our absolute commitment to creative freedom with our commitment to empowering consumers to make informed choices. We are guided by our belief that the ultimate responsibility for controlling the games that come into the home lies with parents, not industry, not Congress, and not federal or state governments. According to the FTC, 45% of parents who are aware of the video game rating system say they do not use it. I submit to you that no one has yet conceived of a law that can mandate sound parenting.

Initiatives on Game Ratings

In 1995, the IDSA created the Entertainment Software Rating Board, or ESRB, which uses teams of independent, demographically diverse raters to review each and every video game. ESRB issues ratings suggesting—and that is a key word—suggesting, but not dictating—the age appropriateness of a title. In addition, ESRB ratings provide simple but clear information about the content that influenced the rating, such as violence, strong language, or suggestive themes. The philosophy underpinning the ESRB system is to give parents the tools to make informed choices, but not to attempt to dictate to them what is right for their families. At the same time the ESRB was created, IDSA voluntarily created an Advertising Code of Conduct requiring that the ratings and content information issued by ESRB be placed on packaging and in advertising. The Ad Code also contained a provision advising "companies must not specifically target advertising for entertainment software products rated for Teen, Mature, or Adults Only to consumers for whom the product is not rated as appropriate."

In 1997, recognizing the emergence of the Internet, the ESRB launched a new rating service called ESRB Interactive, or ESRBi. Through this service, ESRB offers companies the opportunity to rate their websites and video games distributed on line. More and more companies are now rating online games and game websites with ESRBi.

ESRB Ratings are Accurate and Reliable

We are confident that people from all quarters regard the ESRB ratings as helpful and reliable. In this regard, Peter D Hart Research Associates completed a new survey in July 2000 seeking to gauge whether consumers themselves believe that ESRB ratings are accurate. The research involved mall-intercept interviews with 410 adults nationwide, including 246 parents who were shown videotapes of game clips and asked to rate them based on the ESRB standards. The survey found that "in 84% of all instances, games are rated equal to or less strictly than the official ESRB rating." Hart found that the ESRB is "twice as likely to be more conservative than the public" in rating decisions. With respect to the content descriptors, the survey found "participants are generally in agreement with the ESRB on violence descriptors, and in instances in which there is disagreement, they are usually less strict than the ratings board." In short, the ESRB ratings are reliable and effective. No rating system will ever generate 100% agreement since everyone brings their own biases to the process. But we think the level of concurrence registered by consumers for the ESRB is extremely impressive. And the FTC noted last September that the independent rating system used by the video game industry "appears to be helpful to those parents who actually use it" and that a majority of these parents say it does an excellent or good job in advising them on the levels of violence in our products.

Consumer and Retailer Education and Enforcement

Starting in 1995, the ESRB maintained an active program to provide information on the ESRB to retailers and consumers. It established a toll free number which has logged millions of calls since its inception, created a multi lingual web site where consumers can get information on the age and content rating of over 8,000 video games, and distributed millions of Parent Guides to ESRB Ratings to retailers and advocacy throughout the country, as well as to local government officials upon request, including Attorney General Ryan of Illinois and Attorney General Granholm of Michigan. In fact, AG Granholm has distributed nearly 100,000 ESRB educational brochures across the state, with the active support of the ESRB.

Tiger Woods PSA

In the Fall of 1999, ESRB launched an extraordinary campaign to raise awareness and use of its ratings, with the centerpiece being a PSA featuring Tiger Woods urging parents to "Check the Rating" of games they buy; ESRB purchased advertising in major national publications with significant parent readership, such as Good Housekeeping, Parenting, and Newsweek. ESRB placed pull-out flyers in major parent-oriented publications, such as Child Magazine, it redesigned its consumer brochures and distributed millions to leading retailers, and it reached out to leading national grassroots organizations with ties to schools and parents, such as Mothers Against Violence in America and the PTA seeking ways to partner with them to get the word out to consumers, especially parents, about ESRB ratings and how to use them.

Initiatives on Retail Enforcement

The IDSA has been proactive on the issue of retail enforcement long before the FTC or members of Congress expressed interest in the subject. The IDSA sent letters to major national retailers asking them to make a commitment to consumers to use their best efforts not to sell Mature rated games to persons under 17, a step we had also taken in October 1998. To date, Toys "R" Us, K-Mart, Wal-Mart, Target, Circuit City, Staples, and CompUSA have all adopted policies restricting the sale of video games to persons under 17. IDSA supports those efforts.

But we must note that we've supported these efforts even though the Mature rating itself does not say that a title is not appropriate for a person under 17; rather, the rating says that the content "*may not be suitable*" for a person under 17. There is a material difference. The M rating is a point of information and guidance for consumers, and is not an absolute statement on what is or is not appropriate for a particular child. We believe that this decision is one best left to parents who, the FTC itself acknowledges, are usually involved in buying or renting the games their kids use. A final point on retailers: we recognize and respect the fact that the ultimate decision on what policies to adopt in stores properly lies with the individual retailers who are the best judge of the relationship they want with their own customers.

Initiatives on Advertising and Marketing

In September 1999, the IDSA Board took the extraordinary and far reaching step of asking the ESRB to create a new Advertising Review Council (ARC) within the ESRB. The ARC is empowered to ensure that all advertisements by those who use ESRB ratings adhere to strict content standards covering such areas as violence, sex, and language, and to enforce compliance with all other provisions of the industry ad code, including the anti targeting provision. In addition, the IDSA shifted responsibility for the ad code and its enforcement from the association to the new ESRB ad council, and provided a major increase in resources to support expanded staffing and more aggressive monitoring and enforcement of advertising standards. This initiative was undertaken long before the FTC report was completed, and reflected our own judgment that our industry needed to revamp and step up our approach to monitoring and enforcing our advertising standards.

THE FTC REPORTS

We appreciate the fact that the September 2000 FTC described our industry's overall self-regulatory program as "the most comprehensive of the three industry systems studied by the Commission" and that it recognized that "it is widely used by industry members and has been revised repeatedly to address new challenges, developments, and concerns regarding the practices of our members." The FTC also pointed out that, quite the opposite of standing by idly, we have been aggressive in seeking compliance with our standards. As it put it, "to its credit, the IDSA has taken several steps to encourage industry members to comply with the industry's various ratings and advertising requirements."

We were extremely pleased that the FTC report released in April 2001 acknowledged the many positive steps we've taken since the original report to address legitimate concerns about industry marketing practices, though candidly, we think it understated the importance and scope of the actions we've taken.

IDSA Actions Since The December, 2000 FTC Report

Advertising Guidelines: First and foremost, we have taken extraordinary additional steps to enhance our marketing and advertising code. Our ad code always contained a general restriction on advertising titles to audiences for whom the game may not be appropriate. But soon after the report was released, the IDSA convened a task force of industry marketing executives to explore how to respond to the FTC findings.

On March 14, 2001, the IDSA Board of Directors adopted a series of explicit guidelines to govern the marketing of Mature rated games to persons under 17 years old. Among other things, these guidelines prohibit the marketing of M rated games in magazines where 45% or more of the readers are under 17 and on TV shows where 35% or more of the viewers are under 17.

We believe the adoption of these guidelines is unprecedented. We know of no other industry in the entertainment or other fields, which has issued such explicit guidelines to restrict marketing of a product which is entirely legal to sell to persons under 17, and which has coupled such guidelines with a self regulatory body with the power to enforce compliance and punish violations of them.

Our Board's decision to adopt these guidelines was a difficult one. As I said earlier, there is nothing in the ESRB rating system that even defines a Mature-rated product as one that is inappropriate for persons under 17. The ESRB rating is a guide for parents; it is not intended to be a means to restrain the sale or distribution of Mature-rated video games. Moreover, unlike other products whose marketing may be restricted as a matter of law, it is entirely legal to advertise and sell M-rated video games to persons of any age. Thus, our members wrestled with the notion of adopting voluntary guidelines that could limit their rights to freely advertise their games. In the end, we believe the guidelines adopted appropriately and aggressively address concerns about target marketing.

Establishing limits on Mature-rated game advertising in game publications was an especially difficult issue. But we took this step anyway. For many game publishers, advertising in these publications is the primary, most efficient, and cost effective way to reach their core adult gamer audience. Unlike other entertainment industries which are more dependent on mass media advertising, and who capitalize on free advertising outlets like music videos, radio, and TV film review and entertainment shows, our industry is dependent on this specialty press. Thus, reasonable limits on advertising Mature-rated titles in game publications must be carefully balanced with preserving the right and ability of companies to effectively reach their target consumers. In adopting these guidelines, we were sensitive to our fundamental obligation as a content industry protected by the First Amendment to adopt guidelines that ensure that Mature-rated products are marketed appropriately, but do not have the practical effect of chilling the creative process or controlling the types of products brought to market.

In addition to promulgating the guidelines, we have also taken the extraordinary and unprecedented step of strengthening our existing enforcement system to sanction violators of the industry guidelines. Under this new enforcement system, ESRB is empowered to take a wide range of steps against ad code violators, including levying fines, and in extreme cases, actually withholding a rating, which would be commercially crippling for any software publisher.

I am proud to say that not even the tobacco and alcohol industries, whose products cannot be legally sold or marketed to persons under 18, have gone as far as our industry in adopting meaningful marketing guidelines restricting marketing to minors, and giving them teeth through a comprehensive enforcement regime.

Education: IDSA has continued its efforts to broaden awareness of the rating system through outreach to major medical organizations. In January, we sent letters to the American Academy of Child and Adolescent Psychiatry, the American Psychiatric Association, the American Nurses Association, the American Academy of Pediatrics, and the American Medical Association asking them to "work with us" to expand ESRB educational efforts. To date, and to our disappointment, none of these groups have responded affirmatively.

Derek Jeter PSA: This Spring, the ESRB released a new PSA featuring New York Yankees' All-Star Derek Jeter urging parents to "check the ratings" before they buy video and computer games. This PSA is airing in retailers around the country, and on more than 50 television stations—including cable and broadcast outlets—it has generated nearly ten million audience impressions so far.

ACADEMIC RESEARCH ON VIOLENT VIDEO GAMES

It's easy to lose sight of the fact, in all the rhetoric, that video games are legal products for people of all ages, that they are constitutionally protected products, and that at best, the scientific evidence linking them to harmful effects is weak and ambiguous and at worst does not exist. Indeed, that's exactly what The Government of Australia concluded in December 1999 after an exhaustive evaluation of all the available research on violent video games.

The Australian Government report concluded: "After examining several attempts to find effects of aggressive content in either experimental studies or field studies, at best only weak and ambiguous evidence has emerged. Importantly, these studies have employed current games or concerned contemporary young players who presumably have access to the latest games. The accumulating evidence—provided largely by researchers keen to demonstrate the games' undesirable effects—does indicate that it is very hard to find such effects and that they are unlikely to be substantial."

It's also what the Surgeon General of the United States found in his sweeping examination of the causes of youth violence. Of the research on video games, Surgeon General Satcher said, "The overall effect size for both randomized and correlational studies was small for physical aggression and moderate for aggressive thinking... The impact of video games on violent behavior remains to be determined." This conclusion itself was based on a study that several experts have said is seriously flawed methodologically and likely biased to find a link between games and violent behavior.

I note these research findings to further dramatize the fact that our industry has taken extraordinary and far reaching steps to address concerns about violence in our products even though such products are a tiny fraction of overall industry offerings, even though parents are usually the ones buying games for their kids, even though most game players are adults, and even though there is no credible evidence that they lead to violent behavior.

CONCLUSION

Mr. Chairman, I will not tell you our industry has been perfect either in its conduct or its implementation of our own standards. I will tell you we have shown a genuine commitment to the principle of informing consumers about the content of our products and regulating how these products are marketed. We have proven that with or without the FTC, our efforts to continue to enhance our self-regulatory regime is unwavering.

At the same time, we must acknowledge that we do live in a world where media is incredibly complex, where the Internet spans the globe, where consumers, young and old, have access to information in ways never before imagined. In this environment, it is simply not possible or realistic to create an airtight system where young people do not hear about, or even obtain, games that are not appropriate for them. To the extent this occurs due to industry's conscious effort to target kids to buy M rated products in violation of industry standards, it is not defensible. But to the extent it happens, as a result of the information and media explosion flooding over all of us, it is unfair and unrealistic to point fingers.

We are proud of our industry's record of producing the most advanced entertainment products available in the world today, and we are proud of our commitment to the responsible marketing of these products. We look forward to a dialogue with the Committee on these issues. Thank you.

Mr. UPTON. Thank you.

Mr. Valenti, your opening statement.

STATEMENT OF JACK VALENTI

Mr. VALENTI. Mr. Chairman, I thank you. Those Members of the House of Representatives who are in the first year of their 17th term were just entering Congress when the film industry's voluntary movie rating system was born. That is on November 1, 1968, 30, what—32 years and 8 months. I submit to all of you that nothing lasts that long in this brittle, explosive, volatile marketplace unless it is providing some kind of a benefit to the people that it aims to serve, in this case, the parents of America. Since the inception of this rating system, 30—almost 33 years ago, it has had one prime objective, and that is to give advanced cautionary warnings to parents so that parents, as Congresswoman Harman pointed out, can make their own decisions about what movies they want their children to see or, following up with Congressman Largent, movies they don't want their children to see. That is a parental responsibility that ought to be invulnerable to all outside interference.

Now how is it doing? Since 1969, the Opinion Research Corporation of Princeton, New Jersey, has conducted nationwide polls of 2600 respondents. In September of last year, the latest poll revealed that 81 percent of parents with children under 13 found this rating system to be very useful to fairly useful in helping them guide their children's movie-going. And I was very pleased to hear Mr. Peeler speak a minute ago, because the FTC last year conducted its own independent national survey and they found that 80 percent of parents said they were, "Satisfied with the rating system."

Now following up to Mr. Lowenstein, are we perfect? Of course not. Nothing made by mortal men and women is ever going to be perfect, and we can always improve. But we are doing our darndest to do what we said we would do, to fulfill our obligation and turn away revenues at the box office in order to fulfill and redeem that obligation to parents. I don't know any other industries—maybe the video game or others—who turn away revenues in order to redeem an obligation to parents.

Now the next question that comes up is how the rating is done. The fact is that we are not dealing here with euclids, geometric equations, which are always pristine and pure and clean-shaped and final. The fact is we are dealing with subjectivity. Vexing though it may be, social scientists, child development experts, Wall Street analysts and movie raters, are all immersed in subjectivity. The lines we draw are smudged. The veils we looked at are murky. And because you are trying to say, as the Wall Street analysts, "is the stock market going up or down?" nobody knows. Does a 6-year-old boy who becomes agitated by watching some aggressive material on television at the age of 20 pick up a Glock 9 and blow somebody's head off? Nobody knows. We do the best we can to try to give parents some guidelines and let them make the decisions.

Let me go on to the FTC report which Mr. Peeler alluded to. The first report was issued on September 10, 2000. Within 17 days of the issuance of that report, Motion Picture Association presented to the Congress a 12-point set of initiatives in place today. And I must say I think they are being complied with. Among that was that I appointed within each of the major studios a compliance committee and a compliance chairman whose duty it was to examine the marketing plan of every single motion picture that that company is releasing. That went into effect last October.

I'm now getting reports, written and oral, and face-to-face meetings to make sure that that monitoring goes on. I think some of the things that the first FTC report said that the movie industry was doing are indefensible. I wouldn't defend it if my career and job depended on it. But that is being corrected now. And I think we are trying to make up for some of these frailties and, I would like to believe, inadvertent actions that took place.

I could go on here with my blathering, but I would be eager to answer any questions that you have. All I can tell you is I heard what Congressman Largent is saying and others, and I agree. I am a parent of three children myself and cared deeply about their growing up to become good citizens. Thank God they have. But I do know that my wife and I, when they were younger, were absolutely stern and forbidding in the kind of movies we wanted our children to see or the music they wanted to listen to, which I believe, as Ms. Harman pointed out, that is the duty of a parent. And if there isn't built within this child early in life a moral shield that will be impenetrable to their brandishments, their peers or the mean streaks enticements, no law, no fiery rhetoric, no Presidential directive, no congressional legislation is going to salvage that child's conduct or locate some lost moral core.

Thank you, Mr. Chairman.

[The prepared statement of Jack Valenti follows:]

PREPARED STATEMENT OF JACK VALENTI, CHAIRMAN & CHIEF EXECUTIVE OFFICER, MOTION PICTURE ASSOCIATION OF AMERICA

Thank you, Chairman Upton and Congressman Markey, for giving me the opportunity to testify here today in front of your Subcommittee. Yours is a panel, I might add, that has been involved in these issues in a balanced and careful way for many, many years. And the panel that helped to originate the "V-chip," an enormously important tool for empowering parents.

When the Federal Trade Commission's first Report came out last fall, our industry responded seriously, responsibly and expeditiously to address the aspects of the Report that showed where we, like any industry, could do better.

Our industry leaders recognized that there was room for improvement in some of the marketing practices of our studios. We needed to do a better job of not inappropriately marketing certain films to children. So I immediately convened a series of round-the-clock meetings to address the problems identified in the FTC's first Report. I am pleased to tell you that just three weeks after the release of that Report, we announced a 12-point set of initiatives that every major film studio has pledged to follow.

The plan requires, among other things, that our companies appoint senior compliance officers to monitor each studio's marketing practices, furnish each newspaper with the reasons for the ratings of each of their films and not show R-rated trailers in connection with G-rated films.

Also as part of the plan, MPAA established and expanded web sites that provide parents with general information about the ratings system and the specific places where they can obtain ratings information about every film recently in release (for example "filmratings.com" and "parentalguide.org"). Not only will parents find a film's rating here, but also the reasons why a movie received a particular rating. I should note that this is information that we have long provided to film critics and others, and encouraged them to use in their reviews of new movies. But we took it a step further and put this information online (and in advertisements) so that any parent will be able to find it. Mr. Chairman, a copy of the complete 12-point set of MPAA initiatives is attached to my remarks. These Initiatives are in place and working. Our Compliance Committees are functioning as we pledged they would.

Seven months later, when the FTC released its second Report in April, it became clear that we were honoring our commitments. The Commission acknowledged that the "motion picture . . . industr[y] [has] taken a number of significant steps to limit marketing violent R-rated films . . . to children and to provide parents with more information regarding the content of their products." The second Report found virtually no advertisements for R-rated movies in popular teen magazines, routine inclusion of reasons for ratings in print and television advertising, and substantial compliance with the industry's pledges regarding trailer placement.

Let's also discuss the voluntary movie rating system. It is, on occasion, the subject of criticism, sometimes by film reviewers and directors for being "too strict" and sometimes by members of Congress. Let us not forget that the R-rating does not mean "Adult-Rated"—that is the province of the NC-17 rating. Children are admitted to R-rated movies if accompanied by a parent or adult guardian. The rating system believes that only parents can make final decisions about what they want their children to see or not to see. Indeed, for almost 33 years the movie industry has been offering advance cautionary warnings to parents about individual films so that parents can make their own judgments. We are the only enterprise in our national marketplace to voluntarily turn away revenues in order to redeem our obligation to parents.

In the most recent survey by the Opinion Research Corporation of Princeton, New Jersey (September, 2000), 81 percent of parents with young children found the rating system to be "fairly useful" to "useful" in helping them guide their children's movie going. The FTC's own independent survey, released at the time of its first Report, in the Fall of 2000, revealed that 80 percent of parents were "satisfied" with our rating system.

We are not perfect, to be sure, but our companies are committed to providing parents with advanced information about movies so that parents can make informed judgments about their children's visual viewing.

Mr. Chairman, this is an oversight hearing and my time is limited, so I will not discuss some of the well-intentioned but very troubling legislation within the jurisdiction of your Committee. Suffice to say, though, that I agree with the bipartisan views of the FTC commissioners, who wrote, "Because of The First Amendment protections afforded these products, the Commission continues to believe that vigilant self-regulation is the best approach to ensuring that parents are provided with adequate information . . ."

Thank you.

Mr. UPTON. Thank you.

Ms. Rosen.

STATEMENT OF HILARY B. ROSEN

Ms. ROSEN. Thank you, Mr. Chairman, and thank you for inviting me today.

Record companies perform many functions, but a most important part of our job is to market and promote an artist's vision and music to his fans and to help them find new audiences for their work. It is a task we take seriously, and I want to stress to you today that it is a task we perform responsibly.

In 1985, we reached agreement with the national PTA and the Parents Music Resource Center to label explicit lyrics, music releases with a parental advisory logo. The logo has been made uniform in size and it appears on the permanent packaging or on the artwork on the front side of a CD or cassette. In many cases, record companies release edited versions of the same product and those are indicated on the top spine at retail, the so-called radio versions.

The FTC actually found that 77 percent of parents were aware of the music industry's system, and of those that were aware, 74 percent approved of the system.

But in response to legitimate criticisms, we did more. In October, 2000, we created a uniform standard of application for the logo. We created an advertising policy to make sure that people were aware of the logo. We created guidelines for the Internet and music distribution on line.

In February, the FTC issued another report and gave the music industry a failing grade. To be sure, we deserved it, and I said so publicly at the time. Immediately, I began working with the National Association of Recording Merchandisers and our member companies to establish an implementation task force for the Parental Advisories Program. I have met personally with top executives of every major record company to review their implementation of the guidelines, And we have been meeting with our retail partners as well.

I am confident we are making progress in assuring that our guidelines are being met. There is no excuse for not doing what we said we were going to do. The implementation task force, just for your information, has also addressed some other program improvements, which we are currently working into our guidelines: Expanding the advertising requirement to television and radio, using the label on street marketing programs and music sampler giveaways, and encouraging the posting of lyrics.

The FTC criticisms have generally fallen into two categories. The first I have just addressed. We must do better. The second we are going to consistently disagree with them on, because it is more problematic. Despite their claims that they are not making content-based judgments, the FTC is repeatedly criticizing us for marketing inappropriate content for teens. Put simply, the RIAA Parental Advisory Program is not an age-based rating system.

Therefore, all of the FTC criticisms that we are marketing material that we have already determined is inappropriate to children is simply unfounded. Our label is an advisory logo about explicit lyrics and it makes no judgments, nor do we think such judgments are warranted about what is age appropriate.

Informational rating systems must reflect the nature of their respective media. Our system is often compared to television and movies and video games. And while our industries work together for education, they are very different, and for good reason. Books have no label or rating, even those that contain explicit content and are marketed directly to children. Why? Because words are subject to interpretation, to imagination, and most people feel labeling books is a bad idea.

Lyrics are likewise susceptible to varying interpretations. Words will have different meanings, depending on who is hearing them. Music is closer to books than it is to video games or television or movies.

Parents are overwhelmingly satisfied with our program, and we can do more. We can reach the rest of those parents that the FTC found didn't know about the program and were engaged in aggressive efforts to do so.

Technology has a positive impact on this. In months to come, major record companies are launching subscription services to deliver music on-line. Each of these services are exploring ways to put parental tools in place; for filters to allow consumers to block labeled music if they choose.

This issue of explicit lyrics is a difficult one and one on which there may be fair and principal disagreements. I recognize there are some who would like to see us impose more self-regulation or Government regulation, but you must understand there are people in the music community who think we have gone too far.

In summary, I think we have achieved the right balance. The recording industry has a system in place that works, one that reflects the nature of the unique art form. It is being strengthened and promoted and it is overwhelmingly supported by America's parents. Thank you.

[The prepared statement of Hilary B. Rosen follows:]

Prepared Statement of Hilary B. Rosen, President and CEO, Recording Industry Association of America

Introduction

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you today.

I am Hilary Rosen, President and CEO of the Recording Industry Association of America, an association that represents over 600 record companies.

Ours is an industry that prides itself on its diversity. Our companies work with hundreds of thousands of artists to create countless works across the musical spectrum, from acoustic ballads to zydeco melodies. In fact, our members create over 90% of the legitimate sound recordings sold in the United States.

Record companies perform many functions but a most important part of our job is to market and promote an artist's music to his fans and help them find new audiences for their work. It is a task we take seriously and I want to stress to you today that it is a task we perform *responsibly*. After all we are not just business executives, we are parents and concerned citizens who make decisions based on our dreams for our children and our commitment to our communities.

That is why today I want to talk about how our present day Parental Advisory system came about, why it is not an age-based system, the support it enjoys and what we're doing to build on that support.

The Evolution of the Recording Industry's Voluntary Program

The premise of our system is to balance an artist's right of self-expression with a parents' need for information to make choices based on their children's individual situation and their own values.

In 1985, we reached agreement on that approach with the National Parent Teacher Association and the Parents Music Resource Center. Within months, music releases with explicit lyrics, whether about violence or sex, were identified.

And over the years, our system evolved, responding to the changing needs of retailers and parents and adapting to new technological developments in the entertainment industry.

In 1990, after some parents complained that they couldn't spot the advisory easily, we took steps to strengthen our system. We established a uniform, universally recognizable Parental Advisory logo. It is one inch by a half-inch on cassettes and CD jewel boxes. We also launched an extensive marketing campaign to educate both parents and retailers about the system and the new logo.

And in October, 2000, we again announced new steps to improve our system. In fact, we announced three:

First, we provided our members with uniform standards to guide a label and artist in deciding whether to apply the Parental Advisory logo. They advise that this decision be made by weighing contemporary cultural morals. They also clarify that the logo should be applied to single-track recordings when they are commercially released as well as to full albums.

Second, we established a policy to include the Parental Advisory label not just on explicit sound recordings, but also in consumer print advertisements for these recordings.

Third, we established uniform guidelines urging all of our on-line retail partners to prominently display the Parental Advisory Label for all labeled products from the catalog pages all the way through to the shopping basket.

And in April of this year, in conjunction with the National Association of Recording Merchandisers (NARM), we announced the formation of a new marketing compliance task force to further improve the effectiveness of the industry's Parental Advisory Program. We met with officers from the marketing, advertising and legal departments from each of our individual member companies to help ensure that when they place consumer print ads they understand the guidelines and are properly implementing them.

Public Education about our program will play a major part in our efforts over the next year as well.

Informational Systems Should Reflect the Nature of Their Respective Industries

Our labeling system is often inappropriately compared to the ratings systems in place for the television, motion picture and videogame industries. While our industries work together to bring information about our systems to parents through the www.parentalguide.org website, our systems are very different. And for good reason. Each system is designed and has evolved to reflect the media to which it applies.

Books have no label or rating, even those that contain explicit content and are marketed directly to children. Why? Words are very subject to interpretation and imagination, and most feel that labeling books is a bad idea.

Music consists of lyrics and composition, and we as an industry do label recordings that contain explicit content. As our guidelines suggest, context is obviously important: some words, phrases, sounds, or descriptions might be offensive to parents if spotlighted or emphasized, but might not offend if merely part of the background or not a meaningful part of the lyrics. The context of the artist performing the material, as well as the expectations of the artist's audience, is also important.

Lyrics are often susceptible to varying interpretations. Words can have different meanings. Also, words cannot be viewed in isolation from the music that accompanies them. Lyrics when accompanied by loud and raucous music can be perceived differently than the same lyrics when accompanied by soft and soothing music.

For example, I know of a work that has it all—sex, violence, adultery, murder, etc. It's Bizet's *Carmen*, an opera that is a favorite with musicians and the public alike. What would happen to this work under such a system?

Even if classical works were to be set aside, song lyrics are by their nature impressionistic and are often used symbolically. While it is possible to measure the amount of pollutants in water or how much energy is needed to run an appliance, there is no universal criteria for categorizing words in lyrics or books.

Unlike books and music, movies are audiovisual works which may leave less to the imagination, and as such have ratings systems which take age into account while still leaving to parents to make the decision about what is suitable for their children to watch.

Finally, videogames, which are audiovisual and interactive, have added elements in their ratings system.

Music is much closer to books than it is to movies or videogames in nature. While we have agreed to label when explicit content is contained in a sound recording, we do not have an age-based system. We do not prohibit the marketing of music to certain age groups. We do provide a well-known and commercially accepted logo to identify recordings that contain explicit material so that parents have a "heads-up" in making purchasing decisions. We feel it is appropriate to warn parents that there may be objectionable material in an album or song but leave it to them to decide, based on their own values, what's appropriate for their children.

So what does this mean? It simply means that we need a system that fits the entertainment. And I believe the parental advisory systems we have today for books, music, movies and video games reflect the nature of each industry.

Parents on the Parental Advisory Program

And it is important for this body to know that parents already have weighed in on our parental advisory system. And overwhelmingly, they support it. In fact, according to the Federal Trade Commission, 75% of parents who are aware of the parental advisory program, support the recording industry's system.

Parents understand that lyrics are subjective; they simply want a tool to help them identify that music which may have content that they may find objectionable. We provide them with that tool , and are currently engaged in educational efforts to make it even more ubiquitous.

And at this point, I should add that despite the emphasis at these hearings on recordings with explicit content, they comprise a relatively small proportion of our industry's output and the themes and language contained in all of our music reflects different parts of today's society.

In an average retail store with 110,000 titles, about 500 will carry the Parental Advisory logo. That's less than one-half of one percent of that store's total inventory. Let me repeat that again, it is less than one-half of one percent. And the major labels produce edited versions of nearly all recordings that carry the logo. Compare to that the fact that Country comprises 10% of our industry's product, and that Gospel and Contemporary Christian comprises 7%, and it helps to put this issue into perspective.

Federal Trade Commission Recommendations

Of course, we would not all be here if everyone were happy with our current rating system. As you are well aware, the Federal Trade Commission in the past has been critical of it. It suggested that we focus our efforts in three areas.

Specifically, the FTC recommended that the industry should:

1. Establish guidelines for advertising—we have
2. Increase compliance at retail—retailers make their own decisions, and we support those decisions

3. Increase parental understanding of the label—70% of the people have said that they are aware but we can always do more education. And in fact, it on that last point that I wish to focus on.

Awareness Campaign

Our industry is currently engaged in a campaign to do just that—raise public awareness about our Parental Advisory program.

One of the steps we have taken to that end is the launching of a campaign around a new Parental Advisory Labeling brochure, intended to educate parents, caregivers, PTAs, and other consumers about the program. This campaign will be centered on leaders within the educational community who are in a position to carry RIAA's message to both students and parents. The initial distribution will include parent-teacher organizations, school principals, coaches, music teachers, school guidance counselors, school psychologists and local and federal officials nationwide.

We recognize, however, that we also need to have a presence where consumers purchase most of their music—retail stores. That is why we decide to update all countertop displays and store posters of the Parental Advisory Label with the web address for parentalguide.org.

As you may know, this website is a one stop resource for parents to learn about the parental advisory program as well as the different rating systems for television, movies and video games. By adding this address, it points parents to a single resource about content whereas otherwise they may not have normally visited each individual site to learn about the different rating system for each industry.

And lastly, I also want to mention that we have developed a Public Service Announcement in which music industry legend, Quincy Jones, appears. This PSA will be made available to not only television markets across the country but radio stations as well.

A Word of Caution, Consequences and Conclusion

In summary, the recording industry has in place a system that works, one that reflects the nature of the industry, one that is overwhelming supported by America's parents and one that is being strengthened and promoted.

Given these facts, I would caution you against allowing government intervention in the marketing of music. I know that some of your colleagues have introduced a measure that is identical to one that was introduced in the Senate by Senator Lieberman. The very nature of these proposals raise serious constitutional red flags. In fact, the Federal Trade Commission itself stated that they believed that "because of First Amendment issues... vigilant self-regulation is the best approach to ensuring that parents are provided with adequate information to guide their children's exposure to entertainment media with violent content."

And while I am sympathetic with parents who feel that their children are no longer under their moral control, this just isn't the case and these measures certainly aren't the cure.

Young people who continue to need the guidance and leadership of adults in their lives. It is simply wrong to suggest that any government regulatory action can substitute for such involvement, particularly when it comes to art.

This debate over music keeps coming back to the same thing. Despite all of the trappings and new ways to look at the issue, the fact is that some people just don't like the music. And that is a freedom of expression issue.

Remember that the distinction between high art and the low road is deeply rooted in individual values and perspectives. For each person who believes rap lyrics portray a foreign world, there is another who finds them deep and powerful because that world is all too real.

And above all, we must remember this: In our country, expression is not required to pass any test of validity, or even propriety, to be both permitted and protected.

After all, the test of whether America allows free speech is not whether it grants freedom to those with whom we mildly disagree. It is whether we protect the freedom of those whose views—and language—make us apoplectic.

I am proud that ours is a parental advisory program that not only respects one of our nation's most cherished freedoms but also empowers parents and has their support.

Thank you.

Mr. UPTON. Mr. McMillon.

STATEMENT OF DOUG McMILLON

Mr. MCMILLON. Thank you, Mr. Chairman. I will briefly summarize my statement.

At Wal-Mart, we are a customer-driven company. Our customers are the primary force behind the decisions we make. We aspire to be an important part of our communities and to provide products and services that raise the standard of living for our customers. Consistent with that aspiration, Wal-Mart attempts to sell entertainment product in a way that allows our customers to make informed decisions and to exclude from our shelves merchandise that our customers find objectionable due to its sexually explicit or extremely violent nature.

The challenges we face are in our ability to first help the customer understand what they are buying and, second, determine which products they find objectionable either before and in some cases after we have made it available for purchase.

At times, this is harder than it sounds due to the subjective nature of some of these decisions. In the case of movies, we use the Motion Picture Association ratings. We do not carry NC-17 product. We do carry R-rated movies, which our buyer selects on a title-by-title basis. Our cashiers are prompted at their registers to verify the purchaser is 17 or older. We are involved in an ongoing training effort to ensure that all of our more than 120,000 cashiers execute our policy of age verification.

In the case of video games and computer software, we use the ESRB ratings. We do not carry adult-only titles and we register prompt for age verification on M-rated titles.

In addition to register prompting, we have also implemented in-store signing, print advertising and associate training to explain the ESRB rating system.

In the case of music, we do not have a rating system to follow. We do not currently carry Parental Advisory stickered music. We do carry edited versions of some Parental Advisory music. We do not age restrict the sale of any music products. From our perspective, a standardized rating system for music would help our customers make a more informed purchasing decision.

In conclusion, while we strive to use our best judgment on what we carry and work hard to restrict the sale of certain products to those under the age of 17, it is not possible to eliminate every image, word or topic that an individual might find objectionable.

In addition, we are the first to admit that our systems and training, good as they are, are not infallible. We want our customers to make informed decisions and feel that we are handling entertainment product in an appropriate manner.

[The prepared statement of Doug McMillon follows:]

PREPARED STATEMENT OF DOUG MCMILLON, SENIOR VICE PRESIDENT AND GENERAL MERCHANDISE MANAGER, WAL-MART STORES, INC.

INTRODUCTION

Mr. Chairman, members of the Subcommittee, I am Doug McMillon, Senior Vice President and General Merchandise Manager, for Wal-Mart Stores.

At Wal-Mart, we have worked hard to create and protect our relationship with our customers. They are and always have been the guiding force behind our decisions. We have created stores that offer every day low prices, quality merchandise, and fast and friendly service. Our associates have also been involved with the individuals and families in our communities. Last year alone, we supported our communities with $190 million in charitable giving. Ninety-seven percent of that money was donated at the local level through our stores. We aspire to be an important part of our customers' communities and to provide products and services that raise the standard of living for the working families of America.

Consistent with that aspiration, Wal-Mart attempts to sell entertainment product in a way that allows our customers to make informed decisions and to exclude from our shelves, merchandise that our customers find objectionable due to its sexually explicit or extremely violent nature. The challenge we face is in our ability to 1) help the customers understand what they are buying and 2) determine which products they find objectionable either before, and in some cases after, we have made it available for purchase. At times, this is harder than it sounds due to the subjective nature of some of these decisions.

Any success we achieve in these efforts is accomplished, in large part, by following rating systems established by the entertainment industries.

MOVIES

In the case of movies, we use the MPAA, Motion Picture Association of America, voluntary ratings (G, PG, PG-13, R, and NC-17) as we make decisions about which movies to carry. For example, we do not carry NC-17 rated content. We do carry G, PG, PG-13 and some R rated content. Our buyers for movies determine which R rated movies to carry based on their best judgment. They use their knowledge of our customers and the customer response to the movie in theaters to make a decision on a specific title. We then utilize a register prompt at our cash registers to verify the age of the customer buying the R rated movie. In accordance with our policy only those customers who are age 17 and above are permitted to purchase R rated movies.

We believe that because MPAA ratings have been in consistent use since 1968, there now exists a widespread customer understanding of the ratings. As a result, we have few customer questions about the ratings themselves. Our customers seem to clearly understand what they are purchasing.

VIDEO GAMES AND COMPUTER SOFTWARE

In the case of video games (for example, Sony Playstation or Nintendo games) and computer software, we use the ESRB, Entertainment Software Rating Board, ratings (EC, E, T, M, and AO) as we make decisions about which products to carry. We do not carry software rated adults only (as rated by the ESRB). As a rule, we do not carry Parental Advisory stickered product. We do carry EC, E, T, and select M titles. Our buyers for video games and computer software determine which M rated products to carry based on his or her best judgment. They use their knowledge of our customers to make decisions on specific titles. We then utilize a register prompt at our cash registers to verify the age of the customer buying the M rated product. In accordance with our policy only customers who are age 17 and above are permitted to purchase M rated titles.

Since the ESRB has only been in existence since 1994, we sense that a large number of our customers do not clearly understand the ratings system. In addition to register prompting, we have taken several steps to educate our customers on how to interpret the ratings including in store signing; print advertising; and associate training. As a specific example, Wal-Mart stores display in store signing which explains the ESRB ratings. For video games and software, in store signing is placed in either the glass case or section where the item is stocked and explains the ESRB ratings to customers.

MUSIC

In the case of music, we do not have a ratings system to follow. The music labels determine on a title-by-title basis whether to attach a parental advisory sticker or not. We refer to this as stickered music. Today, we do not carry parental advisory stickered music.

The music labels make edited versions of some stickered music available. We do carry edited versions of music on selected product. This product is labeled "edited version." Our buyers for music determine which non-stickered and edited music to carry based on their best judgment. From our perspective, an unbiased, standardized ratings system would help our customers determine whether specific music is appropriate for their needs and tastes.

We do not restrict the sale of any music products. If we were to make the decision to carry parental advisory music, we would most likely restrict the sale through a register prompt as we do with R rated movies and M rated video games.

CONCLUSION

While we use our best judgment at Wal-Mart on which items we carry, and while we work hard to restrict the sale of certain products to those under the age of 17, it is simply not possible to eliminate every image, word or topic that an individual might find objectionable. In addition, we're the first to admit our systems and our associates, good as they are, are not infallible.

However, it is our sincere hope that our policies make it possible for our customers to make informed decisions and for them to feel we are handling entertainment product in an appropriate manner.

At this time I am pleased to answer any of your questions.

APPENDIX

MPAA (Motion Picture Association) Ratings

G (General Audience)—All ages admitted.
PG (Parental Guidance Suggested)—Some material may not be suitable for children.
PG-13 (Parents Strongly Cautioned)—Some material may be inappropriate for children under 13.
R (Restricted)—Under 17 requires accompanying parent or adult guardian
NC-17—No One 17 and Under Admitted.
ESRB (Entertainment Standards Ratings Board) Ratings
EC (Early Childhood)—content suitable for persons ages 3 and older
E (Everyone)—Content suitable for persons ages 6 and older
T (Teen)—Content suitable for persons ages 13 and older
M (Mature)—Content suitable for persons ages 17 and older
AO (Adults Only)—Content suitable only for adults

Mr. UPTON. Thank you. Ms. White.

STATEMENT OF DAPHNE WHITE

Ms. WHITE. Thank you. Thank you very much for inviting me here today. While some would call me an advocate, I am here today to speak as a mother. It is as a mother that I started the national grass roots organization called The Lion & Lamb Project to organize and support parents who want to tell the entertainment industry, as one of your colleagues did today, that enough is enough.

I represent millions of parents and other concerned adults, teachers, grandparents, guidance counselors, psychologists, who want to tell the entertainment industry that the violent fare that they are serving our children on a minute-by-minute, hourly, daily, around-the-clock basis is not acceptable and must stop. Industry must do more to restrain themselves.

It is important to understand that entertainment violence is neither innocuous nor harmless. In July of last year, representatives of six public health organizations presented a joint letter to Congress on this very topic. To quote from that statement, "The conclusion of the public health community based on over 30 years of research is that viewing entertainment violence can lead to increases in aggressive attitudes, values and behavior, particularly in children." The groups who signed the statement included the American Medical Association, the American Academy of Pediatrics, the American Psychological Association and the American Academy of Child and Adolescent Psychiatry.

So that last September when the FTC investigated the marketing of violence to children and found that these three industries represented here today were indeed target marketing adult level violence to children pervasively and aggressively, I was hoping that by now we would have had much better, meaningful and enforceable self-regulation by these industries.

If I were to grade the three industry groups on their progress, I would give the music industry an F, the movie industry a D-minus, and the video game industry a D-plus. I expect better than Ds from my son and I expect better grades from entertainment industries that currently earn billions of dollars from parents nationwide.

So what kind of progress has been made since September? What has the movie industry done since the FTC report was first issued? Well, they came up with a 12-step plan poetically stating that R-rated films would not be, "inappropriately specifically marketed to children." Inappropriately specifically? That phrase alone would earn a D-minus in most high school writing classes. We found the movie industry's 12-step plan so full of loopholes that any mom could drive a mini-van right through it.

So after the second set of Senate hearings, we sent a simple survey to all the studio heads who testified to try to get some clear answers to a variety of different things they obfuscated about during the hearing. So we asked simple questions like, "Will movie theaters continue to air previews for R-rated movies before PG-rated features?" some people said yes, some no. We couldn't tell who said what.

"Will movie theaters continue to advertise R-rated films on national television before 9 p.m.? Will movie studios continue to advertise R-rated movies on teen Internet sites?" not a single studio bothered to answer a single one of these questions. They continued to assert that parents like and trust their rating system, but they refuse to deal with parents or answer any parents' concerns.

By the way, I talked to hundreds and thousands of parents every year during workshops and I have yet to meet a one who is as satisfied with the survey as Mr. Valenti says they are.

So let me say, I asked these questions 10 months ago and have not received any answers yet, and I would be very happy to receive some answers today.

What about the video game industry? They have also refused to share these guidelines that we just heard about and were quoted in the FTC report. And as a parents group, we wanted to know, "Okay. Sounds like great guidelines. What are they?" the industry refused to give those to us. We had to file a FOIA request with FTC. And we did get one of those letters from the IDSA, but the Entertainment Software Review Board, which had some other guidelines that were quoted in the report, has so far been fighting our FOIA request and we have not got it.

So the question is, where are the teeth in these so-called industry self-regulations? What specific guidelines have they adopted? How can parents be more involved in the process?

About the music industry, I won't say much beyond what my Russian grandmother would have said. It is hard to translate in English. But basically, "Their total refusal to reform their marketing system," is what she would have said, "is beneath contempt."

Let me say a few words about the First Amendment. I am a mom, not a First Amendment lawyer. But we have heard that the First Amendment prohibits us from placing any restrictions whatsoever on the marketing of violence toward children.

Let me just quote Supreme Court Justice Potter Stewart, who said, "You are all confused about what you have a right to do under the Constitution and the right thing to do." That is two different things.

So I ask you to broaden your thinking about the First Amendment and the protection that should be accorded our children. This is not an open and shut case. I would specifically request that the Congress consider holding a separate set of hearings specifically on First Amendment issues and how they impact on this case so a real debate can take place. Right now, I fear the First Amendment is being used by industry as the first and best tool to close debate rather than to open debate, and that is a real problem. I do think self-regulation would be a good idea if it happens. But if the industries continue to fail to adopt sufficient, enforceable transparent standards, I ask the subcommittee to consider putting teeth behind the FTC recommendations.

What will it take to make these companies behave responsibly? I hope it does not take another Columbine or another 13-year-old shooting a teacher or another 8-year-old shooting a classmate. It might take some self-restraint on the part of industry. As a last recourse, it might eventually take some legislation.

I implore you as Members of Congress on behalf of all the parents and concerned adults in your districts and throughout this country to do your part to stop this blatant marketing of violence to children.

Thank you very much.

[The prepared statement of Daphne White follows:]

PREPARED STATEMENT OF DAPHNE WHITE, EXECUTIVE DIRECTOR, THE LION & LAMB PROJECT

My name is Daphne White and I am Executive Director of The Lion & Lamb Project, a national grassroots parents' initiative founded in 1995. The mission of The Lion & Lamb Project is to stop the marketing of violence to children. We do this by helping parents, industry and government officials recognize that violence is not child's play—and by galvanizing concerned adults to take action.

I am speaking to you today as a mother of a 13-year-old boy, and as a former journalist who spent 20 years writing about education and family issues. I became concerned about media violence when my son was two years old, and I noticed that violence was being marketed even to toddlers. I left journalism and became an activist when I learned that violent media images have been shown to have *lasting negative effects* on the attitude and behavior of children, and especially young children under the age of 8.

I am here representing millions of parents who want to tell the entertainment industry what that news anchorman shouted in the movie *Network:* "I'm mad as hell and I'm not going to take it anymore!" We are here today to examine the entertainment industry's efforts to curb children's exposure to violent content, and specifically their efforts at reform since the Federal Trade Commission (FTC) report came out in September 2001.

In its September report, the FTC found that the video game, movie and music industries were indeed marketing adult-level violence to children in a "pervasive and aggressive" way.

Some of the specific findings were indeed shocking—but perhaps they were more "shocking" to the innocent industry executives than to the weary parents of young children, who had been on the receiving end of these marketing tactics for years. The FTC found, among other things, that children as young as nine years old were being used in focus groups to test R-rated movies; that internal marketing plans for R-rated movies and M-rated video games admitted that teens were the real audience for these adult-rated products; and that R-rated movies were being advertised directly to children in camps and at Boys and Girls Clubs.

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I am sure the industry representatives assembled here today will tell you that all these practices have now stopped, that violence is no longer marketed to children, and that government need do nothing else to protect America's children. *Nothing could be further from the truth!* As a parent, I can tell you that our children are still exposed to violent "entertainment" *every single day.*

It is important to understand that "entertainment" violence is neither innocuous nor harmless. On July 26, 2000, representatives of six public health organizations presented a Joint Letter to the Congress on this very topic.

"The conclusion of the public health community, based on over 30 years of research, is that viewing entertainment violence can lead to increases in aggressive attitudes, values and behavior, particularly in children," according the statement. It was signed by the American Medical Association, the American Academy of Pediatrics, the American Psychological Association, the American Academy of Child & Adolescent Psychiatry, the American Psychiatric Association and the American Academy of Family Physicians.

If any of you work with the scientific community, you know how hard it is to get six organizations to agree to *anything.* While the entertainment industry pays its own consultants to debunk this research, I want to make it clear that the scientific *consensus* is clear: numerous studies "point overwhelmingly to a causal connection between media violence and aggressive behavior in some children," according to the public health groups.

In fact, while most of the long-term research focused on television violence—which is a passive *viewing* of violence—preliminary studies indicate that the negative impact of video game interactive violence may be "significantly more severe than that wrought by television, movies or music," according to the Joint Statement.

Because of the public health implications of this issue, the Senate asked the FTC for a follow-up report, released in April, to assess how much progress had been made by industry since September. In that second report, the FTC did find that "*some*" progress had been made by the movie and video game industry—*none* by the music industry—but that much remained to be done. As a parent's organization, we would agree with that assessment.

If I were to give the three industry groups a grade, I would give the music industry an "F," the movie industry a "D minus" and the video game industry a "D plus." The FTC did say that the video game industry has done "more" than the other industries, and that their ratings system are "better"—but since the other two industries are getting lousy grades, "better" than lousy is still far from good. I expect better than "D's" from my son, and I expect better grades from "entertainment" industries that currently earn billions of dollars from parents nationwide.

Am I just a tough grader? I don't think so. I believe these grades reflect reality—the reality parents live with every day. I travel across the country frequently, offering parenting workshops dealing with the issue of media violence. I have been to towns as remote as Sitka, Alaska and Chautauqua, New York—everywhere I travel, parents are concerned about the level of violence that is marketed to ever-younger children.

Let me give you some examples of the types of marketing that is still taking place today, 10 months after the original Federal Trade Commission report came out. Let's start with the video game industry, as this industry claims to have done the best job in reforming its practices:

Here is a recent Toys R Us circular—Toys R Us, let us remember, is a toy store. It sells toys to children. But here is an ad showing a young boy surrounded by Game Boys—the platform geared most specifically to children—and a variety of video games. This looks like a child-friendly page, and features an array of 14 games including *Donkey Kong, Frogger* and *Scooby Do.* (These games are all rated "E" for Everyone by the industry ratings group, the Entertainment Software Review Board or ESRB.)

But a closer looks shows that snuck in among the many children's games rated "E" on this page are two very adult games: *Perfect Dark* and *Conker's Bad Fur Day,* both rated "M" for mature. Children, as well as their parents, will likely conclude that *all* the games on this page of *Toys R Us* are appropriate for youth.

They would be wrong, of course. Here is one section from a *New York Times* review of *Perfect Dark:* "Swarms of deadly enemies must be eliminated . . . shooting accurately at bad guys takes enormous amounts of practice . . . Practice pays off . . . and yes, blood splatters the walls and floors behind and beneath enemies on the receiving end of your arsenal."

Perfect Dark is a Nintendo game that looks and feels like an older game called *Goldeneye.* The James Bond-based Goldeneye—one of the most violent first-person shooter games I have ever seen—was somehow rated "T" for Teen, and was very popular with teens. While *Perfect Dark* is now rated "M" for Mature, placing an ad for this game in the midst of kids' titles is clearly an effort to target market this adult game to children.

Conker's Bad Fur Day is also rated "M" for Mature. According to Nintendo, this risqué, game is purely an entry for adults. So why are they advertising the game in a Toys R Us catalogue? And why is this game about a "hung-over, foulmouthed squirrel" (in the words of the *Village Voice*) coming out in an "E"-rated version for the Game Boy??

Oni is another violent video game—rated "T" for Teen—that often finds its way onto the E-rated pages of Toys R Us. Here is how one *New York Times* reviewer described this game: First, he complained that when playing many other first-person shooter games—such as the adult-rated Quake *III Arena,* he "barely felt a thing" when "shooting a fellow in the back with a rocket."

"With *Oni,"* he raved, "I'm involved. *It's hard not to be involved when you can hear your enemy's neck snap."* And how is this Play Station 2 game rated? Oni is rated "T," for teenagers! Look for it at your local Toys R Us, between Conker the hung-over squirrel and *Reader Rabbit,* which just happens to be a child-friendly educational video game.

These are just some examples of the marketing of violent video games to children. The industry trade association—the Interactive Digital Software Association—has so far refused to adopt the three very *reasonable* and *modest* recommendations for reform proposed in the September FTC report. As a result, the April follow-up FTC report found that most video game companies are still advertising adult-rated video games in magazines with a large under-17 audience.

We agree with the FTC finding that the video industry can do much more than it is now doing to stop the marketing of violence to children. Bit I also agree with IDSA President Doug Lowenstien on one point. In his address to the annual industry trade show E3—the Electronic Entertainment Expo—Mr. Lowenstein noted how video games are now ubiquitous in the home, the internet, the wireless world, in cars and vans, on airplanes, in military settings . . . and even in schools.

He described an interactive video game that is now being used in Willard Model Elementary School in Norfolk, VA. "It's just a matter of time before more and more games will be used as teaching tools," Mr. Lowenstein said. I agree that video games can and *are* used as teaching tools. The question, Mr. Lowenstein, is *what kinds of lesson* will video games are teaching our children in the future.

Will the technology of video games continue to teach children to feel *satisfaction* in snapping necks, running over pedestrians, blowing policemen to pieces, and eviscerating people . . . or will the game technology be used to teach values that most American parents will feel comfortable with?

Now let's turn to the movie industry. Again, "some" progress has been made—but not nearly enough. This industry has also refused to accept the threshold recommendations for reform proposed in the FTC report.

True, R-rated previews—"appropriate for all audiences"—are no longer shown before G-rated matinees. But previews for R-rated features are still shown before PG-13 features, which are largely aimed at teens. And studios are still advertising R-rated movies during television programs most popular with teens.

Finally, the movie and television industries are still airing R-rated movies such as *Scream* during a time when many children are watching. In the case of *Scream* and *Scream 2,* which aired in January 2001, that time was 8 p.m. And just to make sure kids knew about this televised movie, Fox advertised the film during the after-school cartoon programs, when the greatest number of children are watching television.

I won't go even *begin* to talk about how inappropriate the current movie rating system is—and how much violence is considered "appropriate" for PG-13, PG and even G-rated movies. But I can tell you that many parents are appalled at the scenes they see, with their children, when they take them to movies that the industry assures them are "appropriate" for children.

The FTC recommends that each of the industries should "establish or expand codes that prohibit target marketing to children and impose sanctions for violations." What has the movie industry done? They came up with a 12-step plan that poetically states that R-rated films will not be "inappropriately specifically" targeted to children. *Inappropriately specifically?* That phrase alone would earn a D minus in most high school writing classes.

We found the movie industry's 12-step plan so full of loopholes any mother could drive a mini-van through it. So after the second set of Senate hearings—where each of the seven studio heads appeared to commit to slightly different "specific and inappropriate" reforms—we sent a simple, 14-question survey to all the studio heads who had testified.

As a parent group, we wanted to understand a few simple facts, such as:

- Will movie theaters continue to air previews for R-rated movies before PG-rated features?
- Will movie theaters advertise R-rated films on national television before 9 p.m.?
- Will movie theaters advertise R-rated movies on teen internet sites?
- Does the effort to "not inappropriately specifically target children" mean a stop to the practice of licensing children's products such as toys, toy guns, action figures, fast-food promotions and other products based on R-rated movies?

Not a single studio bothered to answer a single one of these questions. The Motion Picture Association of America assures parents that their rating system and their 12-step program are there for the sole purpose of *helping* parents make wise choices. But in truth, when a parents' group such as ours asks for information, the movie industry can't come up with even a "yes" or "no" answer to simple questions.

Instead of answers, we received a letter from the MPAA with the same vague 12-step program attached, along with the confusing Senate testimony that had already been presented. Let me just say that even though that questionnaire was mailed out 10 months ago, I would still be happy to receive simple "yes" or "no" answers today.

Let me add that IDSA has been equally uncooperative in answering our questions. In its April report—which IDSA claims it passed with flying colors—the FTC mentioned some new marketing and advertising policies the video game industry has adopted. When we requested those policies from the IDSA, our phone calls were not returned. We had to file a Freedom of Information request with the FTC to get the information. We eventually received that information, after paying a fee to the FTC.

The ESRB, meanwhile—the fabled ratings board that boasts its system is superior to all others—is fighting our request to the bitter end. As a parents' group we would like to know: *where are the teeth??* What *specific* guidelines have video game companies adapted to stop the marketing of violence to children? And what sanctions do companies face if they don't comply with these *voluntary* guidelines?

As a parents' group, we believe this information should be public. If the video game industry is really so proud of its *voluntary self-enforcement* system, they should be eager to display that system to parents and other concerned adults. Show us your voluntary system, and how you will enforce it. That way, parents will have more confidence in your industry.

To date, I am sorry to report that we have seen *nothing* from the ESRB. Our FOIA request is still pending, four months after the April FTC report was issued.

I won't say much about the music industry beyond what my Russian grandmother would have said: their total and unequivocal *refusal* to reform their marketing system is "beneath contempt." Like the movie and video game industry, the music industry likes to hide behind the fig leaf of the First Amendment.

But as Justice Potter Stewart once said, "You are all confused about what you have a right to do under the Constitution and *the right thing to do.*"

I am a mother, not a constitutional lawyer. But I would like to quote former Federal Communications Commission chair Newton Minow who wrote "It would surely come as a surprise to those who wrote the First Amendment to see that Americans now cite it not to begin discussion of the public interest, but as a reason to *close* it."

Let's get real here: these three industries are not *really* in business of protecting the First Amendment. They are in the business of promoting their members' bottom line. But at what cost? I am here to tell you, as a mother, that this cost involves our children's lives.

To quote Newton Minow again, "The First Amendment is considered a 'preferred freedom'—one that, when balanced against other rights, gets the benefit of the doubt—but it is not an absolute freedom. It cannot be exercised at the expense of other constitutional rights or, in narrowly defined categories, contrary to public safety or well-being."

The First Amendment was designed for political speech—until very recently, commercial speech was *not* accorded nearly the same rights as political speech. Likewise, the First Amendment has allowed for the protection of children—for example, it is no longer legal to advertise alcohol, or cigarettes, or pornography to children. Corporations can no longer argue that the restriction in the marketing of those products has rung a death knell for the First Amendment.

I ask you today, as the Representatives of parents across the country, to broaden your thinking about the First Amendment, and the protection that should be accorded children under this Amendment.

I also urge you to consider holding a separate set of congressional hearings on these First Amendment issues, so a real *debate* about this amendment can take place. Right now, I'm afraid, the First Amendment is being used by industry as the first and best tool to *censor* debate.

In conclusion, I would like to as the members of this subcommittee to consider follow-up actions to this oversight hearing. All manner of violence is *still* being marketed to children, as I have demonstrated today. The First Amendment is *not* an excuse to do nothing—it is a challenge to do *more* to protect the freedom of parents and children alike. Freedom to live in a peaceful, nonviolent, and civil society.

I also ask the three industries represented here today to clean up their marketing practices toward children, voluntarily adopt the FTC recommendations, and set up stringent, *transparent* and enforceable self-regulatory provisions to stop the types of marketing efforts discussed here.

If the industries fail to adopt these standards voluntarily, I ask this subcommittee to consider putting legislative teeth behind the FTC recommendations.

America's parents—America's *children*—deserve better marketing, and better entertainment, than we are getting. Parents should not be forced by these media companies to become policemen and women in their our homes—to constantly say "no!" to our children when it comes to movies and music and video games.

The type of ubiquitous, never-ending marketing of violence to children must stop. Violence is *not* child's play. We have enough public health research now to know the potential damage that can occur. What will it take to make these companies behave responsibly?

I hope it does not take another Columbine, or another 13-year-old shooting a teacher, or another 8-year-old shooting a classmate. It might take some self-restraint on the part of industry. It might take some legislation. I implore you as members of Congress, on behalf of all the parents and concerned adults in your districts and throughout this country, to do your part to stop this blatant marketing of violence to our children.

Thank you.

Mr. UPTON. Thank you. Thank all of you. At this point, we will be doing questions and alternate between sides of the aisle in 5-minute segments.

Ms. Rosen, based on—listening to your testimony, tell me if I am correct, is the industry even considering a harsher or stronger label for some of its recordings than what is there today?

Ms. ROSEN. What do you mean a harsher label?

Mr. UPTON. I think you know some of the tunes that some of us have heard here. And as you look at whether it be TV or movie, they break it down into more than just a general warning. Might be violence on the TV. There might be nudity. There might be strong language. There are a number of tools that a parent can have—I don't think anybody up here is talking about taking away the First Amendment right. But as parents, we want better tools to figure out what our kids are listening to. And at least this member has seen a number of the labels. The labels are all the same. They don't differentiate, as the movie industry and some of the others have done in terms of trying to break it down in terms of what might be objectionable for a young person.

Ms. ROSEN. It is a fair question, Mr. Chairman. And in fact, because the Parental Advisory label is overly broad, we think it can offer more protection, not less protection. The fact is that it is extraordinarily difficult to characterize what a label may mean, and so that the fact that the label has more of a general implication than it is an explicit lyric, that we think that we are erring on the side of caution.

Mr. UPTON. I know as a dad with a 13-year-old daughter and a 9-year-old son, I know the difference between what is PG and an R and everything else in terms of what might be there and what my kids can watch, and they do, too.

Ms. ROSEN. Well, the issue of PG and R goes to the age-based appropriateness.

Mr. UPTON. When you look at the V-chip, something that I supported and a number of other members of this panel did, too—and I have a V-chip on my TV—I know that when certain shows are on, it does break them down in terms of the type of objectionable material, if they choose, might decide to block.

And when you talk about a song that talks about raping your mother or slitting her throat with all those types of sounds that are on there, I am just asking you whether or not maybe you might want a stronger label than a simple advisory that could account for a whole bunch of stuff.

Is it under consideration that you might look at a varying degree of label so that a parent, if they choose, could use that as a tool in terms of what their kids listen to?

Ms. ROSEN. No. It is not under consideration. We think the label itself speaks——

Mr. UPTON. So this is it. This is your label. And at this point, you are not looking at any stronger label at all?

Ms. ROSEN. If the question is, are we looking to change our labeling or rating system for different kinds of labels or to create an age appropriate——

Mr. UPTON. Not necessarily age appropriate. Again, I have got a 9-year-old son. And what he listens to at 9 is going to be a lot different than what he listens to at 18 and 25. And he is cognizant, too, of the different stuff that he hears.

Ms. ROSEN. The Parental Advisory label is an overly broad and helpful tool because it says everywhere we publicize it, it is a notice to parents that recordings identified by this logo may contain strong language, depictions of violence, sex or substance abuse and parental discretion is advised. So we err on the caution of overbroad rather than try and interpret lyrics for anybody.

Mr. UPTON. I want to show you a cover of a CD that was purchased this last weekend at Best Buy. And on this label, you have got—your warning was there, but it was covered up so that a parent could have easily—or son or daughter could have gone—and underneath the price sticker, there is the label. It is put up precisely over where that label was.

Do you have—is there any code—I know that the regulations that are out, you want that advisory sticker on the permanent packaging for the particular CD. But what about the retailer that has a label that precisely fits right over that, so that when you buy it—and obviously, you don't take that plastic wrap off before you take it to the cash register—there is no clue that it might have an advisory rating on it. Do you have any comment on that?

Ms. ROSEN. Well, I don't represent the retailers, but I am sure that the Retailers Association would agree that is an irresponsible act on the part of the retailer to cover the label. That is one of the reasons, though, to make sure there was broad awareness for whenever a album was labeled, that we would include it in all advertising; that we would make sure if that was bought via Internet information, that it was clearly labeled on Internet sites. It is very important that people be able to know when they are looking at promotions or advertising for labeled product that that is a labeled product. There are other places in that store where the Parental Advisory label exists.

Mr. UPTON. Would the industry support at least an advisory letter to the particular retailer, in this case, Best Buy, that this is not *good practice, putting the price sticker over the warning label?*

Ms. ROSEN. Sure, but I think probably showing it is Best Buy's already listeners.

Mr. UPTON. My 5 minutes has gone too quickly. Mr. Sawyer.

Mr. SAWYER. I yield back, Mr. Chairman.

Mr. UPTON. Ms. Harman.

Ms. HARMAN. This is hard stuff, Mr. Chairman. And my friend Hilary Rosen is going to get the brunt of this this morning—she knows this—but she is a hardy soul.

Clearly it is wrong to have a record price tag block the warning. I think everybody knows that. And it is irresponsible and I will say it. I don't represent the retailers or the wholesalers or the recording industry either. It is absolutely totally irresponsible of anybody to cover over these labels which are intended to give some guidance to parents.

Maybe it is a related question, but I think we all have our parent hats on and you are a parent, too. You have very young kids, but just wait till they go to stores by themselves. This warning label is broad. And my kids are sophisticated and they say, "Well, gee, mom. It is a broad label and it is on everything. And don't you trust me to make my own judgments about what content is reasonable or not? You have to trust me. If you just censor me totally, I will not grow up to be a responsible person with values." Now it is easier for me in the movie case because I can say, "My friend Jack Valenti has taken care to tell me it is an R or PG-13. And I can see that and I tell you no R movies unless we review it first."

It is harder in the record case. What guidance should I give my 16 and 18-year-olds when they make this case to me that this overbroad label is denying them their age appropriate responsibility to make their responsible choices?

Ms. ROSEN. It is a very good question, Congresswoman. And I think, though—I have a lot of friends who will not let their children buy or listen to stickered records. I think that is an appropriate choice for them to make. It is quite clear, though, when you get to 16 it is awfully tough. As a parent, I anticipate it. As a godparent, I already see it.

There are messages—and by the way, over 70 percent of all music is bought by people over the age of 18. So this is not an issue about children.

But teenagers are tough. They hear about tough issues from a lot of different places. And I think that the best thing we can do is hope that a parent who decides to let their teenager listen to or buy labeled recordings will help that teenager put that music in context. And if it is a popular artist, the teenager's music choices can say a lot about what is going on in that kid's life right now.

Music has historically for teenagers expressed emotion and served as an outlet for their feelings. I personally as a parent think that, you know, that can be a gift. If I know where—what kind of music a teenager is attracted to, I am going to get more of a signal about what is going through their own life, but I think it is a parent's responsibility to determine whether a 16-year-old is mature enough or not mature enough. And many 16-year-olds have a lot of maturity and a lot of sophistication. They may have been well-traveled and have a lot of contact with adults. And others may be younger emotionally. And I think that is a parent's decision to make.

Ms. HARMAN. I appreciate that answer, and I can't wait to tune in about 12 years from now when you are going through this with your kids. It is unbelievably hard to do. And, you know, I come back to my magic pill. I wish there were a magic pill. There is no magic pill. I certainly know that we can't legislate the answers, but I also worry that normal, nonperfect parenting skills may not be enough either.

Thank you very much, Mr. Chairman.

Mr. UPTON. I recognize for 5 minutes the chairman of the full committee, Mr. Tauzin.

Chairman TAUZIN. Thank you, Mr. Chairman. Jack, my old buddy, take us back in history. How were movies rated before the current rating system?

Mr. VALENTI. Say that again.

Chairman TAUZIN. Take us back in history. How were movies rated when I was a kid coming up?

Mr. VALENTI. When I took over this job, it was in the Mesazoic era.

Mr. UPTON. Turn the mike on.

Mr. VALENTI. I thought I could lift my voice to meet you, Mr. Chairman.

There was in existence then the infamous Hayes Code. That came in the 1930's.

Chairman TAUZIN. Is that the one where you had to have your foot on the floor?

Mr. VALENTI. That is right. If a man and a woman were in bed, even if they were married and they wanted to become affectionate, each of them had to have a leg on the floor, which means you had to be Nadia Comeneci in order to deal with that.

Chairman TAUZIN. What I want to know is, what were the rating systems. I remember movies were rated X.

Mr. VALENTI. They didn't have a ratings system. You had to get a seal of approval. If you got no seal of approval, you could not get a play date. Why? Because the studios owned all the theaters.

If you are looking for a villain, the Department of Justice in 1950, under the antitrust laws, forced the dissolution of the ownership of theaters and studios and with that the whole Hayes Code began to collapse.

Chairman TAUZIN. In those days, I remember movies were rated X. When did that happen? I remember X-rated movies.

Mr. VALENTI. That came in with the rating system in 1968.

Chairman TAUZIN. We couldn't go look at those.

Mr. VALENTI. X meant under 17 couldn't get in the theater. That name was changed because it was taken over by the pornographers. And we changed it to NC-17, which is very difficult to exploit.

Chairman TAUZIN. What I am trying to get at, though, the movies started out from a position much where Ms. Rosen and the recording industry is today, that there were just one category of movies that you were going to say was genuinely not available to young people. And then we went through a process where parents, basically, as Ms. Harman pointed out, were looking for a little differentiation.

I remember when we went to Peoria, that was a message we got, a message you got, the cable industry got. You remember that meeting. Parents basically said, "Look, we appreciate you giving us the general rating. We'd like a little more specificity about what those movies contain so we can make some differentiated choices for our family viewing and our movie choices." And you responded. You did that. You listened. Government didn't tell you you had to do it, although there was some pressure in the Senate with some bills floating around. But you and the rest of the industry basically said, "Okay. Parents want a few more tools, a little more information, some differentiated ratings and some information about why we chose a particular rating. We are going to give them that, because we want to be responsible and we want parents to have as many different tools to manage the entertainment for their children and their lives as we can." And frankly, you ought to be credited for that. You got burned over in the Senate and at the FTC for a charge that you are, however, still marketing material to youngsters that was inappropriate for them. And you took 12 important steps since then to correct that. And I commend you for that.

But the reason I wanted to take you through that was because I think the recording industry is kind of where you used to be.

And I want to turn now to Ms. Rosen. The recording industry has taken a position—you have enunciated it quite well today—you think parents are happy with one general rating that says, "This material is explicit enough so that you might want to—if you want to, you know, say to your children, 'Don't buy that stuff. I will not let you buy that or entertain yourself with it.'" That was the position the motion picture industry took way back then, and they moved from that to a differentiated system of advisories to parents and to the public.

If we had another meeting in Peoria and the recording industry executives and your association were invited to come and listen to parents, you don't believe parents would want a little more information about how violent, how explicit some of this material is compared to some that is perhaps less violent, perhaps mildly violent or mildly explicit as compared to excessively violent with sounds of people getting their throats cut and chain saws buzzing and blood and guts on the ground? You don't think parents would ask the same thing of your industry that they asked of the motion picture industry?

Ms. ROSEN. Well, they certainly might, because I think we would all like easier choices than the one we have. And it is a clever analogy that you are making, but I think it is not going to be exactly on point, Mr. Chairman, because what ended up happening with the motion picture ratings—and my friend Jack will correct me if I am wrong—is that they went through a process where they said, "If you have this kind of nudity combined with this kind of language and if you have these depictions combined with that kind of profanity, it will get this rating and that rating." Essentially in the visual picture, you have the ability to make those gradations that you don't in music. And I understand the comment that if you have a song like, you know, Eminem, that it should be easy. But the fact is that even Eminem presents gradations and others as well.

Chairman TAUZIN. Let me ask you——

Ms. ROSEN. I think the answer is——

Chairman TAUZIN. Could you not differentiate between excessively explicit, violent and otherwise material and mildly, excessively and—I mean what I am asking is, would it not be possible to make some division of that warning so that there is a stronger warning for the kind of stuff that I think you are going to hear a little bit more about in today's hearing that gets the same warning as a mildly explicit form of recording?

And I have limited time, so I want to ask you a second question and let you answer both. And if that would be possible, wouldn't parents, in your opinion, probably ask for that and appreciate it? And second, are you using the same general label for music and for music videos?

Ms. ROSEN. Yes.

Chairman TAUZIN. The answer is yes, you are. So that music is combined with videos today. And there are video depictions, just like movies and just like video games, that could be explicit and could be excessively violent or what have you?

Ms. ROSEN. It really does not come up in videos, because videos are produced for showing on television, and so there are hardly any videos that get rated like that. So it is really not an issue with video.

Chairman TAUZIN. But you use the same rating systems for sounds and the video is my point. Answer the first question. Couldn't there be a rational distinction between the most outrageous stuff and the mildly outrageous or perhaps objectionable stuff to some parents?

Ms. ROSEN. I think the answer is theoretically no. There can't be, because it is very easy to say as a general matter what would that be. But I assure you when you get down to specifics, it is not that neat.

Chairman TAUZIN. That is the answer that the Motion Picture Academy first gave us way back then.

Ms. ROSEN. I don't think so.

Chairman TAUZIN. That is correct. We just had a general label for a long time. And then they listened to the voices of America. And what the voices of America basically heard in Peoria was that, "Look, you do better than that. You can break this down a little better for us so we can be better advised for our children's sake." And the Motion Picture Academy responded. And I think the criticism you are going to get and what you got from the FTC is that maybe it is possible and maybe you ought to give it a good look.

Ms. ROSEN. Let me just say one thing, anticipating both your own views and the questions of many other people. I have the sense that people think this is out of some sort of liberal defiance or commercial defiance that the record industry doesn't want to go there. And I assure you that is not the case, that this is a genuine and thoughtful sense of principle about the meaning of lyrics, the meaning of music.

Tori Amos' song "Me and a Gun" is about the depiction of her rape. In my mind, and maybe as a woman, that is about the most violent thing I can imagine.

Profanity in Eminem talking about the same thing doesn't make that more violent. It makes it maybe more distasteful. It makes it crasser and more obnoxious. It makes it something that we do not maybe respect as much, but it doesn't necessarily make it more violent.

Chairman Tauzin. I will leave you with this one thought, though. I admit to you that there is a social value in adults learning about the horrors of rape—certainly men understanding more what women have to go through when they are subjected to something as awful as that. But we carefully give parents information about visual depictions and that sort of thing for the sake of their children. And I think before this hearing is over and before this issue is complete, I think you may want to reassess that position. I think you may want to think about a system that differentiates between the most graphic and the most explicit as opposed to that which is mildly explicit or mildly graphic.

I yield back the balance.

Mr. Upton. The gentleman's time has expired. Ms. McCarthy.

Ms. McCarthy. Thank you, Mr. Chairman. And this is to Mr. Peeler. There is legislation both in the House and Senate now to give you, the FTC, the ability to go after the entertainment industry if it markets its products to children, products that are adult-oriented. I know you are aware of it. I wonder if you would share your thoughts with us today about how you make such legislation constitutional, and if it is law, would it risk the entire rating system altogether?

Mr. Peeler. In response, I have to say this is an issue that all five of the Federal Trade Commissioners are involved in on a personal basis and have really given a lot of thought to. They have not yet had the opportunity to review the legislation that you are talking about. And in our most recent report in April, 2000, the Commissioners did say that they believed that the best answer here would be self-regulation, and that our report, that will be coming out in the fall, should give the Congress a good indication of how far self-regulation has gone in the area.

Ms. McCarthy. So you might advise us before we act on the legislation to await that fall report?

Mr. Peeler. If we had a request, we would absolutely respond to it.

Ms. McCarthy. I have not reviewed the legislation either, but I do intend to. I look forward to your fall report and to more input from all segments of the industry on how we might make improvements. I still have grave reservations about trampling on peoples' rights, but I am open to your report and your suggestions and more input from the industry on this important matter.

I thank you and I yield back.

Mr. Stearns [presiding]. I thank the gentlelady. I am going to ask unanimous consent that the FTC's September 2000 and April 2001 report on media violence be made part of the record. I accept it. So ordered.

[The information referred to is retained in subcommittee files.]

Mr. STEARNS. Mr. Peeler, when will the third report come out? You said the fall. I am just wondering when in particular it is going to come.

Mr. PEELER. We are in the process of getting information right now and going out into the field with studies. So we are hoping to have it in the mid-fall. But I can't give you a good target date right now until we see how much we have got and what it takes to go through it. When we have that, we will certainly get back to the committee.

Mr. STEARNS. In the September 2000 report, you identified 55 explicit content recordings and found that all of them were marketed to children under 17. And then you encouraged the music industry to cease such marketing efforts and to adopt an industry-wide anti-targeting code; is that correct?

Mr. PEELER. Yes. That is correct.

Mr. STEARNS. And how did you advise them to do this?

Mr. PEELER. We did it in the report that we released to Congress and the White House.

Mr. STEARNS. So you did not contact them; you just issued the report and hoped that that would be influential?

Mr. PEELER. We have had discussions with all of the industries that were involved in the report.

Mr. STEARNS. You further note—and I have here that shortly before the report's release, the Recording Industry Association announced "Advertising for explicit content and labeling recordings should not appear in publications, web sites or other commercial outlets whose primary," that is 50 percent or more, "market demographics is 16 years of age or younger." So the recording industry anticipated this and came up with an attempt for explicit content labeling. But then immediately after the report is released, as I understand it, the recording industry withdrew its anti-targeting recommendations. Is that what you understand, Mr. Peeler?

Mr. PEELER. That is our understanding. And to go back to that, I think one of the fundamental recommendations that the Commission made, as you indicated, was that that type of targeting and promotion should stop even when you look at—Ms. Rosen made the point today—that their label, unlike other labels, is not specifically age-related. But when you look at our parents' surveys, even among the parents who know about the system and approve of it, about 55 percent of them think it is an age-related system. That may represent some confusion on the parents' part, but it is certainly the parents take away.

So we continue to think that those limitations are important.

Mr. STEARNS. So after your report went ahead, the recording industry decided to develop and then they withdrew their anti-targeting recommendations. So my question to you is, Ms. Rosen, why, after Mr. Peeler and the Federal Trade Commission recommended it and you went ahead and established recommendations, why did you withdraw your recommendations and what was the basis for it? And is the recording industry still targeting to the demographics of 16 years old and younger?

Ms. ROSEN. Well, as a practical matter, the criticisms about so-called targeting of music based on——

Mr. **STEARNS**. No. The question is, they made a recommendation and you agreed to comply and then you suddenly decided not to comply, and the question is why.

Ms. **ROSEN**. There are edited versions of music available for sale that do not require the Parental Advisory, although Wal-Mart sells them in their store. And since this system was not age-based, it was determined that that was not a workable analysis because it is not an age-based system and it doesn't take into account edited versions.

Mr. **STEARNS**. Are you still targeting to 16 years old and younger?

Ms. **ROSEN**. Targeting what?

Mr. **STEARNS**. Well, let me ask Mr. Peeler. You indicated that the recording industry is targeting demographics of 16 years of age or younger individuals?

Mr. **PEELER**. In our September survey, we looked at marketing plans and we found specific statements, for example, "target audience, hip-hop, crossover, pop male-female, 14 to 34," "12 to 34," "13 to 35" and statements like that about who the target was. In our April report, our review indicated that the product, while we didn't seek the marketing plans, our report indicated that the products were being marketed in essentially the same way.

Mr. **STEARNS**. So you recommended in September. They came up and said they were going to change their advertising procedure. Then they withdrew their plan. April, you went back and confirmed they are still targeting.

Mr. **PEELER**. They still appear to be targeting.

Mr. **STEARNS**. Do you agree with the Federal Trade Commission's analysis—yes or no—that you are targeting to 16 years old and under with this type of music? Just yes or no.

Ms. **ROSEN**. The answer is no, because every single one of these recordings were available in edited form, and the FTC has never acknowledged that.

Mr. **STEARNS**. Mr. Peeler, she does not agree with your report in September. She does not agree with your report in April. Can you explain why you are right and she is wrong?

Mr. **PEELER**. Well, again, the recommendation is that each of the industries adopt a code saying that they will not market rated products.

Mr. **STEARNS**. But you are indicating that the recording industry is still targeting these children?

Mr. **PEELER**. Based on the information we saw in the April report.

Mr. **STEARNS**. So, one, they are still targeting; two, they have no intention to change their advertising; and, three, they disagree with you and that is where we stand?

Mr. **PEELER**. In the one area of disagreement on the clean versions, our information is that most of the sales of these products are still of the rated version, not the clean version.

Mr. **STEARNS**. What about her comment that she is editing versions and things like that?

Mr. **PEELER**. Well, again, editing—having clean versions of these products is clearly something to be commended. The question is, in the advertising, are they marketing the clean version or the rated version and the advertising doesn't really make a distinction between these two. And again, the evidence we have seen is that most of the sales are of the unedited version.

Mr. STEARNS. My time has expired, but to conclude, Mr. Peeler, you are saying that it is still, in your opinion, that they are targeting minors with this material that is either edited or unedited.

Mr. PEELER. That is what we saw in our April report.

Mr. STEARNS. Thank you, Mr. Peeler.

Mr. Stupak.

Mr. STUPAK. Thank you, Mr. Chairman. We have up here—someone put up here the Pocket Guide Entertainment Ratings. There are two sides to it here—both sides. So I took a look at it to see if we could find anything in common here amongst all these rating systems. One side, we go to movies. Probably the number I could pick out the best is 13, because that is PG-13. You have your rating and then PG-13, there is two parts.

And then you go over to video games. And they do not have any PG-13. They have T for teen, which says, "Content suitable for those 13 and older." Then you flip over to the other side and we take a look at games on the Internet. And they have a TI for teen interactive, content suitable for ages 13 and older.

And then go to coin-operated video games. There are green, yellow, red. That is about all they have there.

And then music, we have the Parental Advisory explicit content. And if you ask, you can ask about the lyrics. Why is it necessary for everybody to have their own separate system of rating? Why can't it all be the same? Why can't it just be PG-13? Why can't it be suitable for PG-13 for music, all the way down the line? Why does it have to be different? So when a consumer goes to buy something, as they will for the holiday season, I am sure, if they forgot their little handy-dandy Pocket Entertainment Rating card at home after they sat there and tried to figure it out, they would be more confused. Why can't you all do it the same?

Mr. LOWENSTEIN. I will a quick shot. I think in a perfect world having a single rating for everything is clearly more manageable for everybody. I am a parent and I would agree if you could do it.

I think the concern that we have as an industry are in several issues. One is while—in fact, all content is not the same. For example, movies are visual. As Hilary has said, music is a very different experience as to how it is absorbed. It is audio and so forth. Video games are visual and interactive. And all those things result in some different experiences in terms of the content, in terms of how they look and how they feel.

More importantly, one of the concerns that I have with the proposed legislation is that it seems to me to squarely put the Government into the ratings business because——

Mr. STUPAK. We are not telling you to rate it. We are telling you to label it the same. If it is going to be PG-13 for the movies, be PG-13 for the recording industry, for the video games, whatever they might be. I do not think that is rating. We will let you do your ratings. You have come up with these numbers. PG-13, that is the rating system used here. What we are saying is, when I go and look at a box or cassette, I can look in the same spot—or if I am going to buy this movie—I can look in the same spot, have the same rating, have some understanding of what I am purchasing before I purchase it. I do not think we need a perfect world to be able to do that, do you? Mr. LOWENSTEIN. No. We do not need a perfect world. But I will say this in addition, I do not accept the premise, for example, that if you go into a store and you pick up a video game that is rated mature for violence, blood and gore, that it is particularly difficult to understand what that means and that that is not sufficient information to allow a parent to make an informed decision, particularly when you add to that that the packaging itself is quite descriptive as to the content of the game.

So I think in our case, the existing system is quite descriptive. And again, all the research from the FTC across the board would suggest it is pretty easy to understand and desirable.

Mr. STUPAK. Well, I am sure you are all going to protect your own rating system. But do you not think it is a little ridiculous to try to figure this out when we have to go to try to buy something? Why do we have to have our own little fiefdom of commercial to target people? Why can't you just all use the same? If we are dealing with video or music or movies, it is all your senses, whether it is visual, audio or whatever. It is the makeup of the individual to draw from that form of art and take what they want from it. I do not think we need all this.

Let me ask one more question before my time. Ms. Rosen, in your statement you said that music should be distinguished from video products because lyrics are more subjective. While loud music or tone may exacerbate the imagery created by a curse word or an explicit violent depiction, these lyrics would not be stripped of their harmful tone by soft music or soothing background. In my opinion, this would be like saying that a brutal depiction of a stabbing would be less disturbing in a movie if it occurred on a nice grassy pasture as opposed to a crowded city street with rats. How do you justify that distinction?

Ms. ROSEN. Look at Johnny Cash singing about "Folsom Prison Blues" and his experience. Look at Garth Brooks talking about domestic violence, or Dixie Chicks' "Good-bye Earl," which depicts a woman murdering her husband. That is country music and people receive it differently. Look at Carmen or, you know, Tosca. It is certainly the case. "Killing Me Softly" by Roberta Flack is viewed differently. "I Shot the Sheriff" by Eric Clapton is viewed differently. So, of course, the context matters. Of course, the intensity matters. And, of course, the genre matters. And if we are all honest with each other, we know what bothers people the most is hip-hop music and its profanity.

So what we try to do is recognize that reality in the world and label that.

But if we had a rating system that suggested that "Killing Me Softly" by Roberta Flack should be rated for violence, I think we would all agree that that is really inappropriate and overwhelmingly suggestive.

Mr. STUPAK. Do you believe that "Killing Me Softly" by Roberta Flack, that song, is different than some rapper who is actually having gunfire going off in the back as he is singing? Do you think that there is a different degree there or the same degree?

Ms. ROSEN. Extraordinarily different, because I think that there is a lot of hip-hop music that is actually anti-violent using violent references to get their message across. It requires a level of——

Mr. STUPAK. So the music in the background that is being played certainly gives a different meaning to the words, to the lyrics. How is that any different than the movie where you have it, a killing on a subtle place as opposed to a graphic crowded city street I used.

Ms. ROSEN. Because in a movie, you can determine whether somebody is joking or whether they are serious. You can determine whether somebody is angry or whether they are happy. You can——

Mr. STUPAK. You also can determine that from music, can't you?

Ms. ROSEN. Not necessarily.

Mr. STUPAK. You don't think so?

Ms. ROSEN. Eminem is consistently misinterpreted, according to him. So I don't think you can say it is always easy, and I appreciate that you don't agree with that. It is just that, you know, that is how creators view this.

Mr. STUPAK. Thank you, Mr. Chairman.

Mr. STEARNS. I would say to my colleagues, we are going to have a second round, so I hope they will stay. The gentlelady from Wyoming, Ms. Cubin.

Mrs. CUBIN. Thank you, Mr. Chairman. Would the staff please give to Ms. Rosen the document I just gave them. I would ask you to read the highlighted part out loud.

Ms. ROSEN. Ms. Cubin has given me lyrics to an Eminem song and asking me to read them out loud, which I don't really want to do, and so I'm not going to.

Mrs. CUBIN. I can understand that. Pardon me? You are not going to do it?

Ms. ROSEN. No.

Mrs. CUBIN. And that is exactly what I expected. If what you are supporting today is so bad that you can't speak it out loud, and yet you can't tell the difference between that and Roberta Flack's "Killing Me Softly," or "I Shot the Sheriff," then there is something wrong with your thought process, ma'am.

Ms. ROSEN. It is a very good question, and I respect what you are saying. But I think the fact is that this record is stickered. It is not.

Mrs. CUBIN. This record is what?

Ms. ROSEN. This record has a logo on it. There's no reason to defend the lyrics because they are going to mean different things to different people.

Mrs. CUBIN. I think it's profoundly——

Ms. ROSEN. And so nobody is trying to fool anybody.

Mrs. CUBIN. Nobody is trying to fool anybody by differentiating between the song, for example. I have the song here that you talked about the lady who was raped. And I will read this part. I will read these lyrics. They are not pleasant. They are not comfortable. But they aren't so bad that a decent human being isn't embarrassed to read them in public. And I am going to tell you, I thought about—I didn't want to embarrass you. I thought about not sending those lyrics down there for you to read. But then I thought, if people don't know what we are really talking about, it is easy for you to sanitize the system that you have. That is so vile and so disgusting, what I just handed to you.

This song, I will enter the lyrics for the record. And I will have those lyrics entered in the record to prove that there is a distinction, and it is a huge distinction, and you could easily—you could easily separate that kind of stuff from "I Shot the Sheriff," from "Killing Me Softly" if you had the desire to do so. I realize that you represent the entertainers that make their living from their music. I realize that. And I realize you are conflicted by that because they all go through your trade organization. But some of the things that you said—let me find my notes here; that there are gradations in movies that there are not in song, I think those lyrics that you refuse to read very clearly show that there are gradations in music just the same, and that they could be—that they could be broken down into, at the very least, extreme violent and sexual content, and then what you have now. I think—I know you could do that.

Ms. ROSEN. Well, I appreciate what you said, Ms. Cubin, but as a practical matter, the sticker as it exists, the parental advisory logo is already overly broad. It makes clear that these lyrics are explicit.

Mrs. CUBIN. I think that is the problem. That is what I am saying to you. That is the problem. It is overly broad. I, as a parent, I, as a parent, my children are now 24 and 28 and so, well, I am lying about that. They couldn't be that old. I don't know what got me there for a minute. They usually say they are about 10 years younger, and it is easier for me.

And as has been stated before, I agree with Ms. Harman. Parents have to be the ones on the front line. We have to be the ones that make those determinations for our kids. But there is such a big difference between a 12-year-old hearing those kind of lyrics that, again, you refuse to read, and hearing lyrics "I Shot the Sheriff." I mean, common sense would dictate that.

Ms. ROSEN. Which is why "I Shot the Sheriff" is not labeled.

Mrs. CUBIN. Well, then the song that you were talking about, the lady who had been raped.

Ms. ROSEN. Also was not labeled.

Mrs. CUBIN. When there is sexual content—now, don't try to go there. Don't try to say that because I presented you with something so disgusting you couldn't read it, that all of the music that is marked like that is that extreme. It isn't. And that is the problem. We can't differentiate as parents until after we buy the music how bad it is. And we would like to be able to differentiate how bad it is before we have to buy the music by having more levels.

My time is out, but I don't have any desire to force that upon the industry, but I can tell you that the force is large and that the pressure is large and that if the industry doesn't try to accommodate parents in some way this way, then it will happen.

Mr. STEARNS. The time of the gentlelady has expired. The gentleman from Nebraska, Mr. Terry, is recognized for 5 minutes.

Mr. TERRY. Thank you. I appreciate that, Mr. Chairman. I mentioned earlier in my opening statement that I had to excuse myself because I was speaking to three groups of 40 of Boy Scouts that are in the area for a jamboree. But I did my own little poll, by the way, and as scientific as I can do. Out of each one of these groups, you know, 100, 120 Boy Scouts, various ages, how many had the Eminem CD. And it was amazing to me, out of this group, how many raised their hands. I would say about a good third of each one of the groups. Well, maybe not a third. About 20 percent of each one of the groups raised their hands.

My next question was to the cadre of scoutmasters, parents, surrounding these kids. How many of you, as parents, were with them when they purchased it and have listened to it? One. And I think that really begs the question of the discussion here today as we want the warnings on here to warn the parents that there is something graphic, explicit in here that may not be appropriate for children of certain ages. So the discussion—if we can agree to that, that perhaps maybe a 10- or 11- or 12-year-old shouldn't be listening to Eminem. I'm not sure anyone under 17 should be listening to some of these lyrics. The issue then becomes, you know, how do we get the message to the parents, or what responsibility should there be on the store owners, like Wal-Mart?

We had a staff member of this committee that went out and observed kids buying whatever at Best Buy, just went to kind of observe. There are absolutely no restrictions. Young kids obviously 13-, 14-years-old, buying material with parental warnings on it, without parents there, without a blink of the eye.

So I want to ask Mr. Peeler and Ms. Rosen, where do we go? If we have a generic general warning of explicit labels, could we draw the line at a certain age and just say for you to be able to buy this, you need your parents warning? Or you need your parents here to purchase it? Would that be acceptable to place that type of restriction on a retailer? Would it be legal? Constitutional, I mean.

Mr. PEELER. Well, I think you have two industries here. The electronic games industry and the motion picture industry have, on a self-regulatory basis——

Mr. STEARNS. Mr. Peeler, do you have your speaker on? Yes. I guess you do.

Mr. PEELER. Yes. I hope so. As I was saying, you have two industries here, the electronic game industry and the motion picture industry that have been, on a self-regulatory basis, working with retailers and working with theater owners, trying to implement exactly that type of system. And that is probably the best approach.

Mr. TERRY. All right. Ms. Rosen, let me just point out the other observation of my very scientific survey. It was the range in ages in these Boy Scouts. Because some of these scouts are 14, 15, 16. There are others that were, you know, that were pretty young, 10, 11, 12 range. But they had the CD and they are listening to it.

Are there any statistics out there, not on marketing, but on purchases of—that we would break down specifically in the age group? For example, this last Eminem, are there any statistics out there, Ms. Rosen or Mr. Peeler, that say X number or X percentage are believed to have been purchased by boys, girls, in the 12 to 16 ages range? Is there any way—is there anything out there, or is there any way to do it, to get that information?

Ms. ROSEN. No, not really on an album basis, unless the retailers were to keep track of that information. And I am not aware of any retailers that do. But, you know, over 70 percent of music is purchased by people over the age of 18. And I think that you know, it is—you can't help but notice when you make that—have that discussion in a group of Boy Scouts that they are actually in the Boy Scouts; that they are actually learning a set of values.

There are exterior influences in context by which children and teenagers learn. And I think that somehow suggesting that if a teenager that doesn't get an Eminem CD, he is not going to know about profanity or about violence, because there is no other place they are going to learn about it, isn't realistic. What's more realistic is to know that there are parents and organizations and other places, you know, that are going to give people the messages and the context and the ability to absorb, you know, difficult subjects.

Mr. TERRY. All right. Well, let us—my last question, well, my time is up. So—my last question, specifically, Mr. Peeler, and to Ms. Rosen again, at least give us more information on the labels as a parent. Is there—could we have a warning on here that perhaps makes—says there are 147 uses of explicit language and 47 reference to violent acts on this CD? Can we break it down into something like that? What's wrong with giving that level of information?

Ms. ROSEN. I think in theory, nothing is wrong with giving it. The question is creating it, that what we try and do to let people know what explicit means. It means strong language or depictions of violence or sex or substance abuse. But different sentences may mean all three of those things or four of those things and other sentences may not. And I think there has just been numerous attempts to try and categorize this with a finer-toothed comb and it is just too difficult to do. It is not practical. It doesn't—it is not true to the lyric.

Mr. STEARNS. The gentleman's time has expired. The gentleman from Oklahoma is recognized, Mr. Largent.

Mr. LARGENT. Thank you, Mr. Chairman. We have heard almost everybody on the panel and up here talk about how it is the parents' responsibility; they are on the front line. They are the ones that are responsible for passing on the values. We all agree with that. But I want to speak up as a parent, not as a Member of Congress right now, and just tell you a little bit about what I feel like as a parent.

You know, I tried to teach my kids not to smoke. And we all know that tobacco companies definitely marketed tobacco to young people under the age of 18 in the State of Oklahoma. And I taught my kids that, too. I never smoked. My wife never smoked. We, you know, did all that we could. But as a parent now, what happened, I have a daughter who did smoke. How did she get cigarettes? Through vending machines that were outside of a restaurant. So I tried to do the right thing in teaching my kids about not to smoke. But here a vending machine—all she had to have is the necessary quarters to put in the machine to get the cigarettes, and she was doing that.

I don't know how I could have prevented that or anticipated that. I try to build into my kids, you know, the right values in regards to the movies that they watch. We get a subscription as a parent called Movie Guide that gives a—that does exactly what Mr. Terry said. Here's how many times profanities are used or obscenities and acts of violence and rates it for parents. We leave that out for our kids to review movies.

And so they go to movies and we find out that the theaters will allow them to go into movies, even when they are rated R. They let them go in without checking any sort of identification. Blockbuster, you can go to Blockbuster and rent R rated movies, you don't have to show any ID for that. Then you find out, even the movie theaters that say no, you are not 18, you can't go in. Well, the kid goes in a PG 13 and then jumps from that theater over to the R rated movie when the parents aren't looking or the theater owners aren't looking.

So what do you do as a parent to protect your kids? You say—talk about pornography. I mean, this is a real cancer that is eating at our entire society. You say, well, parents should be the ones that guard what their kids are watching on television and cable and the Internet. But then you find out that the statistics say that 80 percent of our kids are first exposed to pornography at school or at the library, places that you would also think would be helping parents out to protect our kids. So when we say, you know, parents should be on the front line, that is absolutely right. But I want to tell you that—Jack, you talked about raising three kids yourself. Being a parent today is not like being a parent 20 years ago. It is a whole different ball game. A friend of mine told me just, when we went over to vote, that in an avalanche every snowflake claims innocence. Parents are facing an avalanche today, an assault on all the values that we want to pass on to our kids. Those values are under attack by the entertainment industry and many other avenues.

Ms. Rosen, I have got to tell you that when I heard your testimony, the one word that came to my mind was shameless. I thought your testimony was shameless. I think some of the things that you—you couldn't even read the lyrics to the song, to a song that is shameless, that has zero redeeming value for our society. Zero. In fact, it is negative. And for you to give testimony to defend that is shameless to me. And I don't understand it.

My question is, Mr. Tauzin raised a question. He said you also produced movie videos and that they had the same rating and you said yes. But we don't have a problem with the movie video, the music videos. Why is there not a problem with your music videos that are played on TV, and there is a problem with the stuff that you put on CDs? Why is there a difference? Why is there a higher level for what you produce for television versus what you produce to be sold at retail stores?

Ms. ROSEN. Well, obviously, artists are in control of their own vision and—but there are standards that have—that the FCC has, or that MTV has for playing videos, and it is relatively common for videos to meet that standard. And what artists do is create a true vision, and when that true vision is explicit or outrageous or potentially offensive, they put a sticker on it. They don't try and hide the fact that some people will find it objectionable. It is labeled. And some times, in most cases, there is an edited version of that music available. Wal-Mart won't sell labeled products. They will only sell the edited version.

Mr. LARGENT. Let me ask you a question. Does the recording industry find it outrageous that the FCC has a higher standard than you have to meet with the CD that you sell at your retail store? Do you find it censoring that you have to meet a higher standard to produce a music video than to produce a CD? Does that violate your First Amendment rights to free speech?

Ms. ROSEN. Well, I think that the artists——

Mr. LARGENT. Does it alter the artists vision that they have?

Ms. ROSEN. Well it may, but music actually starts with the music, and the video tends for a secondary interpretation of it.

Mr. LARGENT. But still an artist's expression that is being edited, you do not find that offensive?

Ms. ROSEN. I think that artists are entitled to put their true vision in a recording. And so that if there are certain compromises that they have to make to get commercial recognition on MTV or sold to Wal-Mart, some of them are willing to make that and some of them are not, and we will support artists either way with that decision.

But I think you just heard Mr. McMillon say that you know they would rather there be a rating system. So this is not a commercial decision on the part of the music community. The decision is based on a sense of principle and, you know, I understand that people don't agree. But it is one based on principle.

Mr. LARGENT. Well, we could sit here and have a pretty eloquent argument about whether it is a marketing decision or whether it is an artistic expression. And I would tell you that I believe that it is purely a marketing decision that is being made by the companies that are producing this. Maybe not by the artist, but by the people that are producing this; that are, you know, stamping out the CDs. It is a marketing decision. It sells. Let me see. I had some other questions.

Ms. Rosen, I had one other question for you.

Mr. STEARNS. The gentleman's time has expired.

Mr. LARGENT. If I could ask unanimous consent 1 minute and one more question.

Mr. STEARNS. So ordered.

Mr. LARGENT. And that is that you said in your testimony that words are subject to interpretation, which is why we don't put labels on books, just like we should not have labels that are age-specific on CDs. Can you tell us any names of any books that are being—inappropriate books that are being marketed to children today?

Ms. ROSEN. Well, you have to define "inappropriate." I can't make a decision about what is inappropriate. I am just going to make—my point is that books are not labeled. You know, the final scene in Harry Potter—I don't want to ruin it for anybody who hasn't read it, but it is a murder scene. I mean, there is—you know, I won't let my kids watch Bambi because, you know, the mommy gets killed. There are things that young people are exposed to all over the place that your natural sensibility wouldn't go to saying is inappropriate because it doesn't have an angry beat or it doesn't have the profanity that some of the music does.

So I think it is clearly true, Congressman, that there is a different standard that we accept, and we accept our responsibility. We put labels on it. I am—what I am simply saying is that to go to a more graded kind of level, with further interpretation is difficult and with that—in that regard, I urge you to consider books as the best analogy.

Mr. LARGENT. But again, my point is—and I will close with this, Mr. Chairman, is first of all, in your testimony, you said that inappropriate books that are being marketed to children are not labeled.

Ms. ROSEN. I didn't say that. I said——

Mr. LARGENT. Well, we can go back and listen to the testimony. That is what you said. I wrote it down when you said it.

Ms. ROSEN. Well, if I said that, that is not what I meant and that is not what my testimony says.

Mr. LARGENT. Second of all, the point I would say that your industry is also making a decision to basically edit what they are doing in terms of what they produce on TV versus what they stamp out on a CD. So you guys are already doing what you are saying you are opposed to doing by the production of your music videos. And with that, Mr. Chairman, I yield back my time.

Mr. STEARNS. The gentleman's time has expired. If my colleagues want to stay around, we can continue. We have a very important discussion here, and so we will start another round here.

Ms. Rosen, you said that you would not let your daughter look at the movie Bambi. Is that what you just said to us?

Ms. ROSEN. I did.

Mr. STEARNS. And why won't you let her look at the movie Bambi?

Ms. ROSEN. Because I find it too sad.

Mr. STEARNS. Because the mother gets killed, I think.

Ms. ROSEN. Yeah.

Mr. STEARNS. Yeah, okay.

Ms. ROSEN. That is my value.

Mr. STEARNS. Okay. That is your value. Would you let your young children go to Best Buy and buy "Kill You," by Eminem?

Ms. ROSEN. No.

Mr. STEARNS. And why won't you let them do that?

Ms. ROSEN. Because that is my value.

Mr. STEARNS. Is your value, you think, so different than most mothers?

Ms. ROSEN. I really don't know. You know, I am a mom in a minivan and I disagree with everything Ms. White said, so I am willing to acknowledge that different people view different things differently.

Mr. STEARNS. Let me ask you this. Do you think the tobacco companies should be prohibited from marketing to children, to teenagers?

Ms. ROSEN. I don't really have an opinion one way or another about tobacco, Congressman. But I will tell you that art is different than tobacco.

Mr. STEARNS. No, but as a mother now, would you think it is okay for the tobacco companies to market to teenagers, tobacco? Just yes or no.

Ms. ROSEN. As a mother, I think it is my responsibility to instill, as Jack says, the moral shield in my children to resist all sorts of temptations that I believe are unhealthy for them.

Mr. STEARNS. So you think it is okay then to market to children tobacco. That is what you are saying.

Ms. ROSEN. I didn't say that.

Mr. STEARNS. Okay. Just yes or no, is it wrong or right in your opinion?

Ms. ROSEN. I don't know enough about it. I don't have a view.

Mr. STEARNS. Okay. But the FTC has said categorically that your industry is marketing, targeting 16-year-old people, children and under, and yet, you will not let your daughter listen—look at the movie Bambi. So I find it—the chairman, Mr. Tauzin, indicated to Mr. Valenti what the system for talking about films back there was, an X, and it was very simple. And what you have here, as he has indicated, is very simple, and you might have to move a generation forward. And I think that is what the chairman is trying to indicate to you.

Now, you don't seem to agree. But I think from your own personal testimony, I would say to you that your industry should consider what we are suggesting here is that we might need something like the Federal Trade Commission. And then second, more importantly, that I think you are going to have to address the idea that Mr. Peeler said, that you are still targeting to the 16-year-old individuals or younger.

Ms. ROSEN. May I respond to that?

Mr. STEARNS. Oh, sure. Go ahead.

Ms. ROSEN. As I said before, with as much respect as I have, the fundamental premise of the FTCs accusation is incorrect. We do not create an age-based system here. So we are not determining what is appropriate for any age. So I—you know, it is my great——

Mr. STEARNS. But you just said that you would not let—how old are your children?

Ms. ROSEN. Two-and-a-half.

Mr. STEARNS. Okay. But if you had an 8-year-old, you said to me you would not let that child go to the store and bring home "Kill You" by Eminem. That is what you told me.

Ms. ROSEN. I think still not at 8.

Mr. STEARNS. Well, okay. But your industry has been targeting, the Federal Trade Commission says, whose responsibility it is, to people who are 16 years or older.

Now Ms. White, I am going to come to you. You indicate in your testimony that you have written questions to the Motion Picture Association, and I have got the 12—I have got seven in front of me. While I talk to Mr. Valenti, could you come up with two of the questions that you would like answers this morning, and I will ask them for you and we will see if we can get an answer.

Ms. WHITE. I appreciate that.

Mr. STEARNS. Because, you know, that's what my job is, to let the poor constituent have the power of me.

Mr. Peeler, when you issued your report in September and also in April, there was no response, and then they started to respond and then they didn't, the motion picture—the record industry. But the Motion Picture Association did indeed respond; isn't that correct? And Mr. Valenti has indicated they went ahead and responded. And I guess the question is, to Mr. Valenti, when you came up with these new guidelines, as a result of the report, you believed and agreed with the Federal Trade Commission. Is that the assumption that you said that you thought they were right and you wanted to correct that matter?

Mr. VALENTI. I believe that there were certain marketing practices that were revealed in this report by our member companies that I found indefensible, yes.

Mr. STEARNS. So you found them indefensible, and you did something about it.

Mr. VALENTI. Well, we put out our 12-point set of initiatives to try to rectify what I thought was some chasms that existed in the marketing plan to some of the companies. And I must say that I had 100 percent cooperation from these member companies, and they all agreed to these initiatives, which they are now complying with.

Mr. STEARNS. Has your industry witnessed any marked effect from the new marketing practice it has adopted since September?

Mr. VALENTI. I have heard from the companies that they have; that it is costing them money in their marketing practices now that—I do not know the extent of it. But it has been written in the press as well.

Mr. STEARNS. Okay. Ms. White, my time has expired, but I want to give you the opportunity to ask Mr. Valenti two questions that you feel are very important.

Ms. WHITE. Okay. Thank you. I appreciate that.

Mr. STEARNS. And we'd like Mr. Valenti to give a yes or no, if you could.

Mr. VALENTI. I will answer any questions anybody wants to ask.

Mr. STEARNS. Okay.

Ms. WHITE. Thank you.

Mr. STEARNS. Put the mike right close to you, Ms. White. Thank you.

Ms. WHITE. The first question that I get asked a lot by parents is about previews. Will the movie industry agree to show age appropriate previews at a movie, so if a child and a parent go to see a G-rated movie, they will only see a preview for a G-rated movie? If they go to see a PG 13 movie, they will only see previews for PG 13, et cetera. That's question number 1. Is that part of your 12-point plan?

Mr. VALENTI. If you read our 12-point set of initiatives we say plainly and clearly that we do not intend to have R-rated movies in a trailer in a theater playing a G-rated movie. That is what the initiative says. A number of our companies have extended that. That is on their own initiative one step higher on PG movies.

Mr. STEARNS. Aren't you talking about previews?

Ms. WHITE. I am talking about all levels. He has so far said that their plan says they will not show R-rated previews before G-rated movies, which used to happen, by the way when my son was young, and we took him to G-rated movies. We are very concerned parents. We work really hard at it. He would see previews rated appropriate for all audiences pre-viewing the worst, the most violent and the most sexual scenes of upcoming R-rated movies. So, so far the industry has agreed to not to show that kind of extreme, an R-rated preview before the G-rated movie.

However, a lot of R-rated movies are aimed at teens and if they continue to show R-rated previews to PG 13 movies, they are marketing R-rated movies to teens, and that is my question. He hasn't answered that.

Mr. VALENTI. I think I just answered the question, Mr. Chairman.

Ms. WHITE. You said no R before G. What about no R before PG and no R previews before PG 13?

Mr. VALENTI. What I am trying to tell you is that we made some pledges in our 12-point set of initiatives. The very first pledge said we would not—our companies would work with theaters so that there would be no trailers for R-rated movies. R rated for violence is what the pledge says, in any theaters that is showing a G-rated movie. That is our pledge. That is what we said publicly, and that is what we are complying with.

Ms. WHITE. I just want to say that a lot of parents are concerned about their children at PG and PG 13 movies seeing previews to R-rated movies.

Mr. STEARNS. Are you happy with your replies?

Ms. WHITE. I am happy that I got a simple reply, but I am not happy with this policy.

Mr. VALENTI. Well, I think I also said this to Ms. White when she wrote us. I responded. I responded to every one of her missives which come to me over the years.

Ms. WHITE. Excuse me. I have only sent you one.

The STEARNS. My time has expired. I think we have given you both an opportunity and now the distinguished chairman of the full committee, Mr. Tauzin, is recognized.

Chairman TAUZIN. Thank you, Mr. Chairman. Jack, I want to read you a statement that Ms. Rosen makes in her testimony. The debate over music keeps coming back to the same thing, despite all of the trappings and new ways to look at the—the fact is that some people just don't like the music. And that is a freedom of expression issue. Let me ask you, does the rating system that the motion picture industry follows, that it has agreed to follow, does it, in any way, contravene or limit the freedom of expression of movie makers in America?

Mr. VALENTI. Does it contravene freedom of expression?

Mr. Tauzin. Yeah.

Mr. VALENTI. It's voluntary.

Chairman TAUZIN. You can make any movie you want, right? You can make the most violent, the most sexually explicit——

Mr. VALENTI. Absolutely.

Chairman TAUZIN. Anything you want in America?

Mr. VALENTI. Correct.

Chairman TAUZIN. You said about the rating. So the rating system doesn't say to anybody you are not free to express yourself in a movie, does it?

Mr. VALENTI. No director, no producer has to cut one millimeter of his film.

Chairman TAUZIN. If he doesn't want to. He just doesn't get the rating he might like, right?

Mr. VALENTI. That's right. He may not get the rating he wants, or he can go to the marketplace, Mr. Chairman, without a rating.

Chairman TAUZIN. That is right.

Mr. VALENTI. The strength of this rating system, the reason why it has withstood challenges in the court is it is not compulsory, it is not government inspired, it is totally voluntary.

Chairman TAUZIN. And as a result it doesn't limit freedom of expression. And it gives out a great deal of information that parents and others can use in deciding whether to take their children to that movie or watch it, right?

Mr. VALENTI. That's right. And Mr. Chairman, and also point out that I know in one of the bills introduced in this House and in the Senate, they refer to adult-rated movies. That is a misnomer. The adult rating category is NC 17. The R rating is not adult rated because children can get into an R-rated film.

Chairman TAUZIN. Thank you, Jack. The other question I want to ask you is it difficult for the industry to make those ratings work? Is it difficult to figure out which movie gets an R and which one gets a PG 13 or whatever?

Mr. VALENTI. Yes, sir, it is.

Chairman TAUZIN. It is difficult, isn't it?

Mr. VALENTI. It is difficult.

Chairman TAUZIN. But you do it.

Mr. VALENTI. Because you are dealing with subjective—it is subjective.

Chairman TAUZIN. But you do it. It's difficult, isn't it?

Mr. VALENTI. Yes, sir. It is.

Chairman TAUZIN. Now let me go to you, Hilary, because that was your word.

Ms. ROSEN. I knew where this was going.

Chairman TAUZIN. Ms. Rosen, that was your word. You said maybe parents would like us to differentiate between the music you wouldn't read to us—and by the way, if you were going to read—if you were about to read it, I just told Ms.——

Mr. VALENTI. I think you are using me as a stalking horse, Mr. Chairman.

Chairman TAUZIN. Yes, I was. But you were a good one and I appreciate it.

Ms. Cubin gave you some music. If you were going to read it, by the way, I was going to stop and ask as a point of order that we give a parental warning to everyone. I read that stuff.

Ms. ROSEN. As would be appropriate.

Chairman TAUZIN. And I thank you for not reading it. But these are your words, that, well, parents may like us to differentiate between the most violent, the most explicit and something else. But it's too difficult. But you see, Mr. Largent pointed out something. It was pretty interesting. He pointed out that the industry does, in fact, target videos in a way that they fit television. So music videos are, in fact, compromised. The vision of the artist is, in fact, changed a bit so that it fits the television requirements. So I gather several things from this. One, that is probably difficult, but you do it. The industry does it. And No. 2, that it is not a matter of principle. It is a matter of marketing. And if you want to get your music video on television, you compromise. The artists compromise and he designs it a little differently so it fits television.

It is a matter of choice, isn't it? It is a matter of marketing. If you want the television market, you change the product so that it fits the requirements of television. If you don't want it, you can make music videos that will never be seen on television. You just market them some other way.

My point is, that your artists do, in fact, make decisions just like the motion picture association artists make decisions about what they want to say and how they want to say it. And they do it for marketing reasons. I assume some of these artists who produce the CDs may choose—they may choose to do a CD that doesn't get that parental warning on purpose, because they think maybe they will sell more CDs to a different class of people. And others choose instead to accept this warning on their music because they want their vision, however violent or however expressive it is. They want it, exactly as it is, unaltered, unfettered by any government or association telling them that what to say, how to say it. And that is their right.

And by the way, I will fight with you, alongside of you for their right to do that if they want to do that. But the point I am making is that all of those artists are just like the artists in the Motion Picture Academy. They make choices about whether they produce that CD or the one you wouldn't read or "Killing Me Softly With His Song." And they make it based upon whether or not they are going to get that label or not. It isn't a matter of principle. It is not a matter of limiting freedom of expression, isn't it. It is really a question of is it too difficult. I mean, that is the defense you make to a more differentiated rating system. It is too difficult. That is really what it gets down to, isn't it?

Ms. ROSEN. There are so many places to go with that question.

Chairman TAUZIN. Well, just take it anywhere you want to go.

Ms. ROSEN. And it is a thoughtful question that deserves a thoughtful answer. And you, know despite the jokes, this is a serious issue, and I understand that. I am not exactly sure what it is you are asking for because if you have a rating system like the Motion Picture Association, where they basically rate everything, they are 500 movies a year?

Mr. VALENTI. 650.

Ms. ROSEN. 600 movies a year, compared to the music industry, which commercially releases about 370,000 songs a year, just commercially. And then of course we know——

Chairman TAUZIN. You are saying it is more difficult, music is more difficult?

Ms. ROSEN. Let me keep going here. So if you did it in the context of everything—there should be a rating system for everything, so there was G-rated music and R-rated music and X-rated music or NC 17, then you get to a place where you are really making value distinctions between Johnny Cash.

Chairman TAUZIN. No, no, no.

Ms. ROSEN. Let me just keep going for a second.

Chairman TAUZIN. I don't want you to go there because you are suggesting that we are asking you to make value distinctions that would censor or limit free speech. I want to be very clear about that. I am only asking whether or not you haven't already agreed that, difficult as it may be, that you rate some music one way and rate some music differently. You have already agreed to that. The only reason you don't differentiate even more is that it is too difficult. Is that correct?

Ms. ROSEN. It is not that it is difficult because nobody wants to work hard. It is difficult because it is too subjective. And I think——

Chairman TAUZIN. Well, Jack said the same thing. Jack said that the reason that it is difficult to rate movies is because it is so subjective.

Ms. ROSEN. But there is more data for movies.

Chairman TAUZIN. But they do it.

Ms. ROSEN. There is more data in movies. But let me go to what that would result in, because if the goal is to say, well, I mean, what's the goal? To say that——

Chairman TAUZIN. The goal is to simply give parents a little more information about how violent, how explicit this movie is as compared to literally to separate the varieties of this kind of music from one another so parents can know.

Ms. ROSEN. Frankly, that is not an issue that comes up.

Chairman TAUZIN. The movie industry did that. They went through this same process and they went through the same grueling, horribly difficult process by which those of us in our positions who desperately want to protect the right of your artists to their free speech in whatever form they want to use it. And I say it again. I will defend, as we should all do, to the death, the right of every artist in your association to make whatever music they want to make. But the music industry went through the same process and concluded, I think correctly, that Americans deserved a differentiated system of knowledge about what this music contains; the videos contained, rather. And I am suggesting to you, I am telling you, if we did another meeting in Peoria and invited your artists to come and the parents of Peoria to come and sit down with you in an open forum, you would get an earful. You would get an earful from those parents like you are kind of getting an earful from some members here, not because they don't think your artists have a right to make the music you won't read today, but because they simply think that music, as compared to a lot of other music, is so different, perhaps it ought to be labeled extraordinarily different from a lot of the other music that still gets an explicit parental warning category. That is all.

There is a huge difference between some of that stuff. And as difficult as it is, difficult as it was for the movie industry to do it, maybe it is in the best interest of the recording industry for marketing purposes for the good of its relationship with its audience and the consuming public of America, and for the good of parents like yourself who are concerned about their children, that this is just one more useful tool the industry could give parents to literally do what you agree is a much more difficult job of raising kids today.

Let me conclude with a thought. You used the word "killing me"—the music "Killing Me Softly" as an example of music that shouldn't be rated. It has got a good message in there. You know, the song is about someone who is hurting. And it literally says he is "killing me softly with his song, with his words."

And there are parents in America who think some of this music is killing this children softly. It is killing their value systems, killing their innocence. It is killing their sense of where they are in the cultural growth curve. And they would like to know a little bit more about which of the stuff has that potential and which doesn't before their kids go out and buy it.

And I just will urge you one last time, I don't want to see our committee or the FTC regulating your industry any more than I wanted to see it regulating the video industry. Jack will tell you I stood against the Senate bills and I will stand against legislation to regulate you here. But I ask you again to listen to the voices of American parents, as you heard it today from these members, and I know you hear it from the Senators as you would hear it in Peoria, and give this a second look. I think you might come to a different conclusion, as difficult as that may be.

Ms. ROSEN. Mr. Chairman, I spend a lot of time up here, and this industry is the benefit of a lot of good public policy from this Congress and this committee. It is my nature to be a compromiser. I would love to be able to sit here and tell you and tell this committee that we can do what you want if, in fact, there was something specific about it, that we could get our arms around. But I think it is not easy for me to sit here and tell you that this is a decision based on principle.

We have already heard from Wal-Mart that we would sell more if we did what you are saying you want. It is not that—it is not that we don't want to do the work. It is not that we don't care. Our industry is full of as many parents as this Congress is full of. These are very extraordinarily delicate and interpretive and subjective issues, and we think we are doing the best that we can in terms of how we inform people. We don't want anyone to feel fooled by the rating system they have. That's why we deliberately make it as broad as we do.

I sat here and said, as I have said publicly for the last 3 months, the FTC was right to tell us that we weren't implementing our guidelines properly and we have to do a better job at that. But I have too much respect for this committee to walk out of here and have you walk out of there and think that you have told me something and now I am going to go do something. The FTC report in the fall is probably going to criticize us just as much as the last two have. And I—that is not something that makes me happy. It is just a fact of life because of this difference.

Chairman TAUZIN. I appreciate that, and my time has expired. I am going to yield back. I am not—I didn't come here today to tell you what to do. I came here today to ask you to listen to the voices of American parents. And that is a good request. It is the same request I made to the video industry when they were faced with similar criticism and similar bills in the Congress to actually tell you what to do. I don't want to be there. I want to help defend against that relationship between the government and our people. I think the First Amendment was designed to protect you from us in that regard. And I respect it for that.

I am not here to tell you to do a doggone thing. I am here to ask you to listen a little more carefully to the voices of American parents. That's all.

Thank you, Mr. Chairman.

Mr. STEARNS. The gentleman's time has expired. The gentlelady from Wyoming, Ms. Cubin.

Mrs. CUBIN. Thank you. First of all, Hilary, I want you to know I think you have earned your paycheck today. And you have done a good job of explaining your industry's position, and we do just have some legitimate disagreements. But that is okay. That doesn't mean we can't continue to work together and try to make everybody better for having done that. I want to just add one little point and then we are all close to being free to go.

Off the Grammy dotcom Web site I was curious, as I mentioned earlier, about—that album Eminem's album that won best rap album of the year, got the Grammy for that. I wanted to know what—how Grammy winners are selected because, you know, I didn't know that. But they are selected, as you know, it is a most prestigious award, and it is awarding—it is awarded from the Academy's voting membership to honor excellence in the recording arts and sciences. It is truly a peer honor, and sales and chart positions don't have anything to do with it.

I think that an album like the one—and by the way, I would not have let you read that either. I wouldn't want to embarrass you like that and I would have stopped you if you had started. But the album that has words that neither you or I will speak in public to be the best rap album of the year sends such a bad message about whether or not your industry does care about our kids. And I believe you do. But it really sends a message. I don't need to say it anymore. Thank you all for being here. This has been a grueling hearing.

Mr. STEARNS. I thank the gentlelady. The gentleman from Nebraska, Mr. Terry.

Mr. TERRY. Thank you. I have got one follow-up comment and a follow-up question to you, Ms. Rosen. One is we talk about the level of subjectivity, and you know it is kind of like art. You know, where do you draw the line. But they have been able to do it in the movie industry to some extent, and I think that is why they are here, to kind of show that they have been able to take something subjective and do something objective with the rating. But you can't convince me that you get 10 reasonable folks in a room and they can't tell the difference between "Killing Me Softly With His Song" and "I am going to choke this radio announcer, this principal, this student body, the counselor, get me the machete from O.J. I am going to make everyone's throats ache."

You can't tell me that is so subjective that we can't tell the difference in the meanings. And then you go on to the course of this song if I am going to kill you and then some other graphic lyrics. You can't convince me that 10 reasonable people can't see the difference between those two sets of lyrics. That just doesn't make sense to me. But let me—that is my comment.

Now, here's my question. You have mentioned how there is the cleaner or edited versions of these songs or CDs that are also marketed. As much as I love music, it is—it used to be my hobby. I almost saw every concert that came through Omaha, Nebraska, and there used to be a lot more than there was now. So I mean rock and roll was—I know it. But now I don't get to buy that much music. And like I said, I think the only rock and roll CD I have been able to buy to Smash Mouth, because my son liked that song "All Star" so much.

But if I walk into Best Buy today, how do I know, as a parent, an edited version versus a nonedited version? How well are those marketed? And in what percentage relative to the unedited version is an edited version also distributed?

Ms. ROSEN. That is a good question. The edited version is indicated on the top spine where it has the album information in a store, so it won't have the parental advisory level, and it will say "edited version" on the top spine.

Mr. TERRY. All right. And then how, in what percentage or what, some objective measurement is an edited version also distributed relative to the unedited version.

Ms. ROSEN. Well, the—another good question that—the way it works is this a record company makes music available to retailers. And buyers who work for Mr. McMillon and other stores around the country then place orders with the record companies for their own stores. And so it is really up to the retail store to determine the mix that they want for their own community and their own stores.

Wal-Mart, for instance, through their distributors, won't order any music with a parental advisory label. Other stores order more. The fact of the marketplace is that—and Mr. Peeler mentioned this before. Most stores order more of the labeled version than the edited version because that is what they believe will sell to their consumers. But we make both available to them.

Mr. TERRY. I appreciate that you make both available. But just—I am curious to know an objective measurement of how many of the edited versions are out there versus the unedited. And I do realize—I appreciate your comment that the retailer makes that decision.

Ms. ROSEN. I don't have those numbers.

Mr. TERRY. Is there a measurement out there, so if I ask you could you get that to the committee?

Ms. ROSEN. I don't think there is one, but I will check.

Mr. PEELER. Mr. Terry, our report has a figure, 90 percent. About 90 percent of sales are the explicit version.

Mr. TERRY. All right. Because that—I will thumb through once in a while when we go into Best Buy, and I have got to tell you, at least at Best Buy, unscientific, by any means, I don't even remember even seeing an edited version of some of these. And again, that is their decision.

Ms. ROSEN. Well, it is.

Mr. TERRY. I was even surprised that there was——

Ms. ROSEN. You know, it may say something about what the marketplace requires, but we are making actually an effort in our advertising now to alert people to when an edited version is available, so that they will know not only that a record has a parental advisory label, but also that an edited version is available, so that they can begin to go into stores and ask the retailer for the edited version, so that if the retailers aren't stocking them, they will begin to purchase it for their own customers.

Mr. TERRY. Well, that is interesting because that raises a good point. I walk into Best Buy, as opposed to Wal-Mart, to buy a CD. I don't even know if there is an edited alternative that may be more appropriate under the age circumstances, whatever ages we have in our children. So, you know, that may be something that we can also——

Ms. ROSEN. The retailer will always know. But we are making an effort to make sure the consumers know.

Mr. TERRY. I appreciate that effort. I am also curious—it seems to me that a lot of the edited versions that I at least hear about aren't necessarily entire CDs, but maybe the pop song, the hit song off of that CD. Is that accurate, or is that the edited version is usually just that one or two songs versus the entire CD?

Ms. ROSEN. Well, no. But sometimes there are albums where there is just too much profanity to edit, so they will take a song, a whole track off an album. So people—they try and make an effort to sort of be responsive. But if it is just a single song it would be a single, not an album.

Mr. TERRY. Okay. And the Eminem CD that we listened to prior to this hearing, there is probably no edited version of that because I think it just probably would be a silence for 60 minutes.

Ms. ROSEN. There actually is an edited version.

Mr. TERRY. Yeah. Or as Barbara said, just maybe some sounds of chain saws going in the background.

Ms. ROSEN. There is an edited version.

Ms. WHITE. But if I could say, as a parent, that is a real problem because the kids are getting basically the same message in the edited version of some of them, you took some of the words out but the theme, whether it is misogyny or rape, killing, it is the same.

So a lot of the parents have told me they are upset when they buy an edited version and it is the same, you know, R-rated, X rated song with some words taken out. It is a real problem.

Mr. TERRY. Yeah. And just in closing, that hooks up to the point that I made in my opening that you hear a cleansed version and as a parent, you go, you know, that is close to a line that I would draw as a parent, but I will allow it. And then you don't know that that is a cleansed or edited version. And then when they go, you allow them, as a parent, to buy a CD, that that ain't what they are buying. So—thank you, Mr. Chairman. I yield back.

Mr. STEARNS. I thank my colleagues. We have concluded the hearings. But I thought Mr. McMillon, you and Mr. Lowenstein have not had the opportunity to answer any questions during this 3 hours that we have had this hearing. So I was going to welcome your comments before we close. Mr. McMillon, if you had any comments on what you heard, or perhaps any insights that we have missed, we would appreciate your summation.

Mr. MCMILLON. I rather enjoyed not answering a question, sir. Thank you. Thank you for having me.

Mr. STEARNS. All right. You are welcome. And Mr. Lowenstein?

Mr. LOWENSTEIN. I have been around long enough to know that if they haven't asked you a question at a congressional hearing, you should get out before you get in trouble.

Mr. STEARNS. Okay. Well, let me just say in conclusion, there are two bills in the Senate and there is one in the House that are dealing with this hearing that we have had. I believe most of the thrust of these bills are dealing with antitrust measures to allow industry to come together to cooperate to solve this problem. At least one of the bills in the Senate, but as I say, there are three bills here, so I think this hearing has not been on the bills, but it is sort of preliminary here, so I suspect you are going to be over in the Senate very soon for a similar type of hearing dealing with their bills.

I think the conclusion here is that the Federal Trade Commission came out with a report in September and a report in April and indeed, they complimented the video game industry for what they were doing, and indicated that they were not targeting children. Then, they indicated that the Motion Picture Association was, and the Motion Picture Association took steps, and felt, as Mr. Valenti said, that they should take steps. But at this point the recording industry started to take targeting guidelines, but decided not to, and the Federal Trade Commission has indicated as we stand here today at this hearing that the recording industry continues to target teenage populations 16 and under, and the recording industry does not agree with that, and will not attempt to provide any guidelines. And so with that, what we heard, we thank all of you for your time. And I think it was a very good hearing, and the committee is adjourned.

[Whereupon, at 12:25 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows:]

PREPARED STATEMENT OF VIDEO SOFTWARE DEALERS ASSOCIATION

Mr. Chairman and Distinguished Members of the Subcommittee,

The Video Software Dealers Association (VSDA) submits this statement for the record of the hearing examining the entertainment industry's efforts to curb children's exposure to violent entertainment.

VSDA shares with parents the concern about the impact on children of depictions of violence, and the Association does not believe that children should be able to obtain videos and video games that their parents determine are not appropriate for them. Accordingly, we are pleased to report that for more than a decade the nation's video stores have been doing their part to make sure that America's children do not have access to movies rated R by the Motion Picture Association of America (MPAA) and video games rated M by the Entertainment Software Rating Board (ESRB) without their parents' consent.

Video Software Dealers Association

Established in 1981, VSDA is a not-for-profit international trade association for the $19 billion home entertainment industry. VSDA represents more than 2,000 companies throughout the United States, Canada, and 22 other countries. VSDA members comprise the full spectrum of video retailers (both independents and large chains) and operate more than 11,000 video stores across the nation. VSDA also includes the home video divisions of all major and independent motion picture studios, video game and multimedia producers, and other related businesses which constitute and support the home video entertainment industry.

Parental Empowerment Programs

The home video industry has for more than 10 years maintained a proactive and effective program to help parents make well-informed choices on the movie and video game content rented for their children.

We start with the premise that the best control of entertainment is parental control, and there is no better place than in a home video store for parents to control the content of the movies and video games to which their children have access. Video retailers aid parents in making more-informed entertainment choices for their families through parental empowerment programs that combine ratings education with voluntary ratings enforcement. They do this by using VSDA's "Pledge to Parents" program and the similar, company-specific programs used by VSDA members Blockbuster, Hollywood Video, Movie Gallery, and others.

The centerpiece of Pledge to Parents, established by VSDA in 1991, is a commitment by participating retailers:

1. Not to rent or sell videos or video games designated as "restricted" to persons under 17 without parental consent, including all movies rated R by the MPAA and all video games rated M by the ESRB.
2. Not to rent or sell videos rated NC-17 by the MPAA or video games rated Adults Only by the ESRB to persons age 17 or under.

In addition, many retailers solicit from customers individualized instructions regarding what types of videos can be rented or purchased by family members. Thus, these voluntary systems allow parents, if they so choose, to be even more restrictive than any industry- or government-enforced system would be.

FTC Reports on Entertainment Marketing

The September 2000 report of the Federal Trade Commission (FTC), "Marketing Violent Entertainment to Children," showed the programs of video stores to be the most effective of any that the FTC examined.[1] It did not identify a single specific instance of a video store renting an R-rated movie or an M-rated video game to a person under 17 years of age. Regarding the findings in the report on sales of videos and video games by mass merchant retailers, as opposed to video stores, major retailers such as Wal-Mart, Kmart, and Toys R Us have resolved to work through the logistical barriers to ratings enforcement in their stores. The FTC's April 2001 follow-up report, while not focusing on ratings education and enforcement by retailers, did suggest some improvements in advertising and online marketing practices of mass merchant and other sell-through retailers (as opposed to video rental stores). VSDA is reaching out to these retailers to assist them in responding to these suggestions.

Conclusion

VSDA's Pledge To Parents and other voluntary ratings education and enforcement programs demonstrate the home video industry's commitment to the communities that our member video stores serve. More importantly, they support the rights of parents to make fundamental decisions involving their children, while emphasizing the need for parents to take responsibility for what their children watch and play. The report of the FTC shows that these programs work.

Finally, we must caution against the temptation to use legislation to attempt to reduce the level of violence in entertainment. Since the FTC issued its report last fall, we have seen pressure to enact legislation to prevent truthful advertising about the content of entertainment (H.R. 2246/S. 792), to impose a universal rating for violence in entertainment products (H.R. 1916), and to grant an antitrust exemption to entertainment manufacturers for activities related to ratings (S. 124). We must keep in mind that, in addressing the issue of violence in American society, the government cannot infringe the constitutional rights of video retailers and their customers—or of parents to raise their families as they see fit. Ultimately the responsibility for raising children lies with their parents, not the government and certainly not video store clerks.

We are confident that this subcommittee will conclude that our voluntary efforts and partnerships between parents and retailers are preferable to government action in this area.

Thank you for allowing us to share our views with the subcommittee.

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[1] "Parents have significant controls over the videos their children rent because of limitations established by the major rental outlets . . . Blockbuster Video and Hollywood Video, the dominant home video membership stores, have responded to parental concerns by adopting policies that give parents the option to restrict the videos rented by their children . . . [R]enting R-rated videos usually requires a degree of parental involvement." Federal Trade Comm., *Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries*, 20-21 (2000). VSDA believes these findings are true also for the vast majority of other chains and independent video retailers, as video stores of all sizes have effective parental control policies. Also, please note that Hollywood Video has changed its policy to require that parents must affirmatively give their consent to their children's rental of R-rated videos and M-rated video games, rather than presuming parental consent in the absence of other instructions, and will shortly have full implementation of this policy.